

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

ORIGINAL

MARIE CHERY

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Complaint for Employment
Discrimination

Case No. CV18 0308

(to be filled in by the Clerk's Office)

Jury Trial: Yes No
(check one)

AZRACK, J.

BROWN, M. J.

RECEIVED
JAN 16 2018
EDNY PRO SE OFFICE

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JAN 16 2018 ★

LONG ISLAND OFFICE

Complaint for Employment Discrimination, Page 1

See Attached for Full List of Defendants' Names

Marie Chery

-against-

P.L.U.S. Group Homes, Inc.

Natouchka Voigt

Teresa Cancilla

Tracey Smith

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>MARIE CHERY</u>
Street Address	<u>770 NASCAN ST.</u>
City and County	<u>ELMONT, NY 11003, NASSAU CTY</u>
State and Zip Code	
Telephone Number	<u>516- 444-7498</u>
E-mail Address	

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	<u>JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS</u>
Job or Title (if known)	
Street Address	<u>161 DELAWARE AVENUE</u>
City and County	<u>DELMAR ALBANY County</u>
State and Zip Code	<u>NY 12054</u>
Telephone Number	<u>518-549-0200</u>
E-mail Address (if known)	<u>supportcoordinator@justicecenter.ny.gov</u>

Defendant No. 2

Name	<u>P.L.U.S. GROUP HOMES, INC.</u>
Job or Title (if known)	
Street Address	<u>1228 WANTAGH AVE.</u>
City and County	<u>WANTAGH, NY 11793</u>

State and Zip Code
Telephone Number
E-mail Address
(if known)

NASSAU COUNTY
516-409-9454

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is:

Name
Street Address
City and County
State and Zip Code
Telephone Number

P. L. U.S. GROUP HOMES, INC.
1228 WANTAGH AVE.
WANTAGH, NASSAU COUNTY
NEW YORK 11793
516-409-9454

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to (*check all that apply*):

- Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- Other federal law (*specify the federal law*):

Continued from Page 2, Part B, of the Complaint for Employment Discrimination

Defendant No. 3

Name: Natouchka Voigt

Job Title: Supervisor at P.L.U.S. Group Homes, Inc.

Street Address: 1228 Wantagh Avenue

City and County: Wantagh, Nassau County

State and Zip Code: New York 11793

Telephone Number: 516-409-9454

E-mail Address: N/A

Defendant No. 4

Name: Teresa Cancilla

Job Title: Human Resources Director

Street Address: 1228 Wantagh Avenue

City and County: Wantagh, Nassau County

State and Zip Code: New York 11793

Telephone Number: 516-409-9454

E-mail Address: N/A

Defendant No. 5

Name: Tracey Smith

Job Title: Supervisor

Street Address: 1228 Wantagh Avenue

City and County: Wantagh, Nassau County

State and Zip Code: New York 11793

Telephone Number: 516-409-9454

E-mail Address: N/A

DISPARATE TREATMENT

Relevant state law (specify, if known):

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964
TITLE VII AND UNDER 42 U.S.C. SECT. 1981

Relevant city or county law (specify, if known):

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes (check all that apply):

- Failure to hire me.
- Termination of my employment.
- Failure to promote me.
- Failure to accommodate my disability.
- Unequal terms and conditions of my employment.
- Retaliation.
- Other acts (specify): DISPARAGING TREATMENT

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

03-11-2016, 03-16-2016, 03-01-2016

C. I believe that defendant(s) (check one):

- is/are still committing these acts against me.
 is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (*check all that apply and explain*):

- race _____
 color _____
 gender/sex _____
 religion _____
 national origin _____
 age. My year of birth is _____. (*Give your year of birth only if you are asserting a claim of age discrimination.*)
 disability or perceived disability (*specify disability*)

HEMIHYPERPLASIA (ONE SIDE OF THE BODY OR A PART OF ONE SIDE OF THE BODY IS LARGER THAN THE OTHER.)

E. The facts of my case are as follows. Attach additional pages if needed.

IT WAS alleged that on March 1, 2016, at the Newport Road JCF, located at 247 Newport Road, Uniondale, New York, while a custodian, I committed abuse (obstruction of reports of reportable incidents) when it was alleged that I failed to report a reportable incident involving a service recipient to the VPCR in a timely manner. Nevertheless, only had I been singled out for abuse or neglect after it was imperative that I reported the abuse perpetrated by the very institution that terminated my employment. See Cont Page!

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on (date)

B.

MARCH 16, 2017 (THE ADMINISTRATIVE INVESTIGATION AT THE JUSTICE CENTER IS STILL ONGOING.)

- The Equal Employment Opportunity Commission (check one):
 has not issued a Notice of Right to Sue letter.
 issued a Notice of Right to Sue letter, which I received on (date)

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (check one):

- 60 days or more have elapsed.
 less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

THAT DEFENDANTS' ACTIONS AND PRACTICES VIOLATED THE
STATE AND FEDERAL LAWS, AWARDED DAMAGES FOR
LOST WAGES TO BE DETERMINED AT TRIAL; AWARDED
GENERAL AND COMPENSATORY DAMAGES TO BE DETERMI-
NED AT TRIAL, INCLUDING BUT NOT LIMITED TO, EMO-
TIONAL DISTRESS, PHYSICAL PAIN AND SUFFERING, LOSS
OF HOME Compensatory DAMAGES - AMOUNT TO
VI. Certification and Closing \$1,000,000.00.

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 1-16-18, 2018

Signature of Plaintiff

marie chery

Printed Name of Plaintiff

MARIE CHERY

Part E, Page 5, Cont'd

Federal law protects employees like Plaintiff from retaliation, or revenge, for participating in protected activities, such as reporting unlawful activities or participating in an investigation into the practices of her employer. Plaintiff's termination of employment was done without cause, in part because it was an employment termination that violates federal and state employment statutes prohibiting discrimination or retaliation. Plaintiff Marie Chery was wrongfully terminated because she was fired for an illegal reason, which involves violation of federal anti-discrimination laws or a contractual breach. As an example, but not the sole example of such discriminatory treatment, upon information and belief, the employer, P.L.U.S. Group Homes, Inc. fired her on the basis of her race, ethnic background, national origin, and disability. It was also because Plaintiff Marie Chery brought to light P.L.U.S. Group Homes, Inc.'s wrongdoing as a whistleblower. The adverse actions on the part of Defendants are considered "retaliation" and are unlawful.

P.L.U.S. Group Homes, Inc. and its hierarchy, to name a few such as Teresa Cancilla, Human Resources Director; Natouchka Voigt, Supervisor; and Tracey Smith, Supervisor, had brushed off the facts to make them look as though Plaintiff was terminated for misconduct to subterfuge the real issues. Besides, on or about March 16, 2016, Plaintiff had visited Tracey Smith for an open, permanent position within the same field and job assignments. Then Natouchka Voigt came over and requested that she talked to Plaintiff about an incident that occurred on September 29, 2015, of which she did not like the idea of Plaintiff's reporting such incident to Justice Center and, hence, she got even and requested that Plaintiff stop her reporting to Justice Center.

Besides, Plaintiff was not allowed to be relieved from her shift for 16 hours per diem while others were allowed to do so, and because she persistently requested the same, and as a result of standing for her rights to reclaim her vested rights, she was unfairly terminated. Besides, Natouchka Voigt, Teresa Cancilla, and Tracey Smith, whose actions are condoned by both Justice Center and P.L.U.S. Group Homes, Inc., had treated Plaintiff with less respect and differently, compared to other non-foreign born Americans.

As an example, but not the sole example of such discriminatory treatment, upon information and belief, Plaintiff was paid less than the white ones and were given less opportunity when they made a request for an accommodation. For instance, whatever Plaintiff did was not right and she was scolded more often than others. She was made work more for less money by assigning her few hours in order to diminish her hours of work.

P.L.U.S. Group Home, Inc's actions, through its management and supervisors Natouchka Voigt and Tracey Smith and Human Resources Director Teresa Cancilla, described above, constitute discriminatory conduct prohibited under federal law. Natouchka said to Plaintiff that she (Natouchka) would never, ever hire a handicap like Plaintiff because Plaintiff had a bad disability. "This job is not for you", Natouchka equipped. Plaintiff had reported such an encounter to Teresa on March 16, 2016. Teresa failed to take action and

instead conspired with Natouchka Voigt, Teresa Cancilla, and Tracey Smith to illegally terminate Plaintiff's employment. P.L.U.S. Group Homes, Inc. created a hostile work environment in which Plaintiff Marie Chery was subjected to egregious and negative treatment because her race, national origin and disability.

In or around her employment at P.L.U.S. Group Homes, Inc., Plaintiff has been complaining, protesting to the rank-and-files at P.L.U.S. Homes, Inc., of discrimination endured. Plaintiff complaining of lack of promotion through training and of new position was denied for no reason and that others were being promoted, and that she and other blacks were denied similar opportunities as these white employees.

Since making her complaint of discriminatory conduct, Plaintiff suffered from continuing discrimination and retaliation.

As an example, but again not the sole example of such retaliatory and discriminatory treatment, on or about March 1, 2016, March 11, 2016, Plaintiff was wrongfully targeted for retaliation and insubordination without any sound basis. Natouchka Voigt had a grudge because the house that she ran was involved residents who had been fighting constantly and she did not want the Justice Center to be aware of the situation. Besides, when Anthony had vanished and the whole institution was in turmoil, Plaintiff was not overseeing him, or doing one on one in that regard. Plaintiff's task was assigned to perform services at the kitchen, not to take care of Anthony. so, Natouchka's grudge and animosity to the extent of terminating Plaintiff's employment had not predicated on Plaintiff's wrongdoing. Thus, unlawful discriminatory animus motivates P.L.U.S. Group Homes, Inc.'s employment decision, not for plaintiff's misconduct or poor performance. At one instance, Natouchka called Plaintiff "Black French Fried", Piggy Haitian, "shorty leg". When Plaintiff complained to Teresa Cancilla, both made fun of her and intoned, "Next time, kiss the dishwasher's ass and everybody will just laugh and make fun of you." So, during her employment, she was really subjected to severely racially motivated verbal assaults and to medical harassment by calling Plaintiff all sorts of slurs because of her disability on an ongoing and continuous basis.

Upon information and belief, defendants terminated Plaintiff because she complained to the rank-and-files of P.L.U.S. Group Homes, Inc. and her supervisors and the Justice Center management, the P.L.U.S. Group Homes, Inc. condoned defendants' endured discriminatory practices.

Upon information and belief, the termination letter specified false reasons for plaintiff's termination. The facts alleged herein show that P.L.U.S. Group Homes, Inc. has engaged in unlawful discriminatory practices related to employment, by denying her equal terms, conditions of privileges of employment and then caused her employment to be terminated because of race, color, national origin, opposed discrimination/retaliation in violation of federal statutes.

As a result of the termination, Plaintiff suffered a loss of income and loss of fringe benefits and promotional opportunity.

As a result of the termination, Plaintiff suffered emotional harm and harm to her reputation and family, at which time her sons and husband had endured derivative psychological and depressive trauma.

Defendants' acts of discrimination, harassment of my disability and retaliation were performed intentionally.

By the above acts, including the decision to terminate Plaintiff, Defendants violated 42 U.S.C. Sec. 1981, because it intentionally retaliated against because Plaintiff opposed racially discriminatory practices and filed a complaint against Defendants' racially discriminatory practices and based on Haitian origin. By this, Plaintiff reiterates that P.L.U.S. Group Homes, Inc. discriminated against her on the basis of her race in violation of 42 U.S.C. Sec. 1981 by denying her opportunities to get the new position opened for everybody to apply. For the record, Plaintiff is (1) a member of a racial minority group; (2) the defendants intended to discriminate against plaintiff on the basis of race, disability, color and national origin; and (3) the discrimination concerned an activity enumerated in the statute, such as making and enforcing contracts. Inasmuch as Justice Center, P.L.U.S Group Homes, Inc. condoned the illegal acts perpetrated by Natoochka Voigt, Teresa Cancilla and Tracey Smith, and Plaintiff's constitutional rights were violated, the alleged actions by the employees were the result of an official policy, custom, or practice of the defendant, and that the policy, custom, or practice caused the plaintiff's injuries.

Defendants Natouchka Voigt, Teresa Cancilla and Tracey Smith held managerial and supervisory job positions at Sands Point Center.

Defendants were personally involved in the racial discrimination against Plaintiff.

As a direct and proximate consequence of Defendants' discrimination against Plaintiff, Plaintiff has suffered, and continues to suffer, substantial non-monetary damages, including, but not limited to, emotional distress, physical pain and suffering, damage to plaintiff's good name and reputation, lasting embarrassment, humiliation and anguish, as well as monetary damages encompassing financial losses, loss of home, loss of income, and loss of quiet enjoyment of home.

Defendants' conduct was intentional, outrageous and malicious in firing Plaintiff and was intended to injure Plaintiff since her employment at P.L.U.S. Group Homes, Inc, and was done with reckless indifference to Plaintiff's protected civil rights, entitling Plaintiff to punitive damages.

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment:

- A. Declaring that Defendants' actions and practices violated the state and federal laws;

- B. Permanently enjoining Defendants from engaging in actions or practices that discriminate against any employees or job applicants because of their color, race, disability and national origin;
- C. Awarding damages for lost wages to be determined at trial, including all applicable front and back pay and reimbursement for any and all lost benefits, together with interest thereon from the time of the initial loss until satisfaction of judgment as well as post-judgment interest thereon;
- D. Awarding general and compensatory damages to be determined at trial, including but not limited to, emotional distress, physical pain and suffering, loss of quality of life, financial losses, loss of home compensatory damages and quiet enjoyment of home, together with interest thereon from the time of the initial loss until satisfaction of judgment, as well as with post-judgment interest thereon;
- E. Awarding attorney's fees;
- F. Awarding costs of suit;
- G. Awarding punitive or exemplary damages up to the statutory limits, if any;
- H. And for such other relief as this Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all claims properly triable by a jury.

Dated: January 16, 2018

Nassau, New York



Marie Chery, Pro Se

9-28-15

to whom it may concern

during my shift 3 to 11 on Sunday

August 2- 2015 JESSICA HAD BODY
CHECK WAS done no new MARKS on her body
I just approache by my assitanc MANAGER
on augusts about a bruise on JESSICA left knee,
the was no injury or bruise on her

body ~~but~~ during my shift I do not see
any bruise on JESSICA on 8-2-15

Why you wait until 9-28-2015 to call me
tell me you want incident Report this is
OVER MOUNT A DO IF A INCIDENT HAPPENED YOU
HAVE 24 HRS TO DO A INCIDENT REPORT NO
~~DO~~ WAIT FOR OVER MOUNT TO ASKED ME TO DO
ONE THAT'S FORTIFIED DOCUMENTS I CAN'T DO THIS
REPORT FOR YOU SORRY.

Marie Cherry 9-28-15

EFF.DT. 03-14-2016
LO# 831
SOCIAL SECURITY NO.
ER NO. 0458204

PG2

Mail Date: 03-21-2016

1. Employer Name: P.L.V.S GROUP HOMES INC
Address: 1228 WANTAGH AVENUE WANTAGH NY 11793

Telephone 516-469-9450
Name of Supervisor: NATOUCHKA VOIGT

2. How long did you work for this employer? 7 Years 6 Months 15 Days

3. What was the last date you worked for this employer? 3/12/16

4. What was your rate of pay? \$ 13.2000
per hour per day per week per year.

5. What were your hours and days of work?

Hours: From: 3 PM To: 11 PM

Days: I DON'T HAVE DAYS BECAUSE I WORK AS PER-Dien

6. What kind of work did you do? (Job Title)

GROUP HOME

7. Who told you that you were being fired?

Name NATOUCHKA VOIGT

Title:

When were you told this? IN THE OFFICE PLUS IN THE HALLWAY she said with

What were you told would be your last day of work? I WORK ON 3-11-16 & 3-12-16 After that the
3-12-16 WAS MY LAST DAY WORK

8. What reason(s) were you given by your employer for being fired?

I GO TO THE OFFICE BECAUSE I SEND LETTER & EMAIL ABOUT A POSITION I
SAW POSTED I CALL TRACEY SMITH SHE SAID ANY TIME YOU HAVE
A CHANCE COME TO SEE ME. ON 3-16-16 I WENT TO SEE HER AT THE
EE-NATOUCHKA CALL ME SAID I TELL YOU THAT BEFORE STOP REPORT THIS HOW

9. If you were accused for violating a company rule, policy or procedure, what explanation or reason did you give in response?

NO I NOT ACCUSED VIOLATING ANYTHING DASH ON
SEPTEMBER THE COMPANY ALMOST KILLED ME 3 TIME NO ONE COME
TO RELEASE I WORK FOR 16 HRS. IN 2 WEEKS THE COMPANY PUNISH
ME IN PROBATION FOR 3 MONTH BECAUSE I DO TO MUCH OVERTIME MANAGER

10. What reason did your employer give you for not accepting your explanation or denial?

ALWAYS CALL IN
NATOUCHKA SAID I TELL YOU STOP REPORT MY HOUSE YOU DID
I SAID IF YOU DON'T WANT ME TO REPORT INCIDENT I WILL DO
SEP-29-15 MERRICK HOUSE INCIDENT WITH THEM ON FEBRUARY UNION
HOUSE INCIDENT WITH

11. What was the final incident that resulted in your fire? (Please describe in detail.)

IT WAS ONE CONSUMER ORNTORY STAFF WAS LOOKING FOR
HIM HE CAN'T FOUND ORNTORY WHEN I GO TO LOOK FOR HIM WHEN I OPENED
DAIRY I FOUND ORNTORY SITTING ON THE FLOOR HE DRINKS 2 ALFEGATOR MILK,

Marie Chery

on December 15, Amanda called me and asked me what my purpose was for requesting those documents and what I was going to use them for. I said that I just want to see what people have said about me that made me get charged category three. I also asked her why she was worried about released documents. Someone who is innocent would not be so panicked. I told her that from now on stop calling me and harassing me. If you have any questions please send it in the mail. I am scared for my life because Justice Center has been following me everywhere I go. I want all the cover ups to be real faled and my name to be cleared from all of this. I cannot get a job because of that. What they have done to me is very unfair and unjust.

MARIE CHERRY

February 15 at 10:30 AM, I asked her why the date had changed. She said that I have no questions to ask, and I just need to be there. I told her that I am not going, because she failed to send me the documents that the judge requested her to send since August 30. I was very surprised on November 30 when Miss Amanda was asked "Did you represent the Justice Center on August 30, 2017?" and she replied no. That has a lie, because on August 30 she introduced herself as "Amanda Smith", a representative of the Justice Center. The Justice Center's motto is "If you see something, say something. But if you say something, they got together and cover it up. Plus Grasp Home has told every employee that if anyone mentions the Justice Center you will get terminated. Every time Amanda Smith calls me, she records me with out permission. She told the judge that she has audio recordings of Marie Cherry.

MARIE CHERRY

~~770 miscant s/t/Mont~~

I never received the documents. Amanda sent me a form named Qualified Protective and Confidentiality Order to fill out so that she could release the document. She never did. I was surprised when I received a phone call on October 16 and told me that I have to accept for the case to become two cases. I said no. She told me that it doesn't matter and that she was going to send me a date to have an interview over the phone with Judge David Malik on November 30, 2017.

Judge David Malik called me at 2:45 pm. He was very angry, from the moment he said good morning. The yelling from him was unbearable. He told me that whether I liked it or not, the case would turn into two cases. The Judge also scheduled for me to go to court in Plainview on the second week of June 2018 to see Judge Mary B. Rocco. On December 15, Amanda Smith called me and informed that I was going to receive a notice of hearing in the mail, and that my court date was on or about

October 6, 2017

Re: Cases # 551047958 & 551048605 – Case #551045715

Justice Center for the Protection of People with Special Needs
401 State Street, Schenectady, New York 12305.

Attention: David Molik
Director, Administration Hearings Unit

Please, be advised that I would like all these above mentioned cases' information and all details to be sent to Justice Center for the Protection of People with Special Needs – 401 State Street, Schenectady, New York 12305.

Pursuant to NY labor Code Art. 20 Sec. 702 Sec. 702-a and New York State General Regulations 466.1 to 466.10 and 466.12 of Human Rights, to serve as request for any grievance records by Justice Center for the Protection of People, I am seeking copies of the following:

All my personal records regarding all grievance maintained by justice Center for the Protection that relate to any grievances concerning me at Queens Hospital, Lab Law Code , Sec. 7020

For example for the Case #551045715 dated January 17, 2016, I would like to know what was status of this situation.

At last, the case 551047958 dated on March 16, 2016, I am inquiring about it as well, its outcome. Also the case 551048605, dated on April 4, 2016, I would like to know the outcome of this case as well. I have requested this matter about 6 times and I have never gotten it, please do your best to quickly respond me. Any grievance records by Justice center concerning case center for development and disability, it was all only these 3 cases under my name and I need all those grievance documents of these cases.

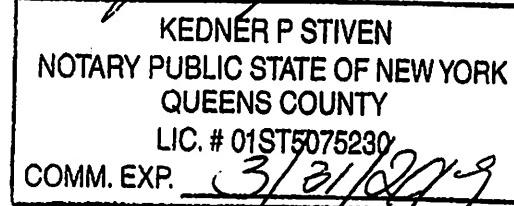
Today, I called the Justice Center for the Protection of People with Special Needs about Case #551045715, one Rep surprised me informed me that she would give me another case number, when she called back and she advised that they would open any other case against me. I rejected the new case number she gave me (the rejected case # is 55104865)- I feel like the Justice Center for the Protection of People with Special Needs is harassed me by giving me a new case number *today , 10-06-17*. If you have any further concerns regarding this matter, fee free to contact me at any time at the above address and number.

Thank you

Best regards,

Marie Cherry

Marie C. Cherry



Ms. Marie Chery
175 Louis Avenue
Elmont, NY 11003

May 20, 2016

Justice Center for the Protection of People
With Special Needs
161 Delaware Avenue
Delmar, New York 12054

Dear Office of

Please allow this letter, pursuant to NY Labor Code Art. 20 Sec. 702-a and New York State General Regulations 466.1 to 466.10 and 466.12 of the Human Rights, to serve as a request for any grievance records by Justice Center for the Protection of People. I am seeking copies of the following:

My personnel records regarding all grievances maintained by Justice Center for the Protection of People that relate to any grievances concerning me at P.L.U.S. Group Homes, Inc. (Lab. Code, Sec. 7020.)

Any instrument signed by me relating to the obtaining or holding of employment or in connection with any grievance against me. (Lab. Code, Sec. 7020.)

Please provide these documents as soon as possible, but no later than 21 days from the date of this request for all my grievance records and 30 days from the date of this request for the remaining records.

Please direct any questions about this request directly to me. Thank you for your attention to this matter.

Be guided accordingly,

Marie Chery

Marie Chery

Sworn to and subscribed before me this 20th day of May 2016

Michael I. Blake

Notary Public

MICHAEL I. BLAKE
Notary Public, State of New York
No. 01BL4767054
Qualified in Queens County
Commission Expires Feb. 28, 2019

Please send me back
this information this is 34th time
I request for this A.S.A.P

Ms. Marie Chery
175 Louis Avenue
Elmont, NY 11003

May 20, 2016

Justice Center for the Protection of People
With Special Needs
161 Delaware Avenue
Delmar, New York 12054

Dear Office of *RECORDS DEPARTMENT*

Please allow this letter, pursuant to NY Labor Code Art. 20 Sec. 702-a and New York State General Regulations 466.1 to 466.10 and 466.12 of the Human Rights, to serve as a request for any grievance records by Justice Center for the Protection of People. I am seeking copies of the following:

My personnel records regarding all grievances maintained by Justice Center for the Protection of People that relate to any grievances concerning me at P.L.U.S. Group Homes, Inc. (Lab. Code, Sec. 7020.)

Any instrument signed by me relating to the obtaining or holding of employment or in connection with any grievance against me. (Lab. Code, Sec. 7020.)

Please provide these documents as soon as possible, but no later than 21 days from the date of this request for all my grievance records and 30 days from the date of this request for the remaining records.

Please direct any questions about this request directly to me. Thank you for your attention to this matter.

Be guided accordingly,

Marie Chery

Marie Chery

Sworn to and subscribed before me this 20th day of May 2016

Michael I. Blake

Notary Public

MICHAEL I. BLAKE
Notary Public, State of New York
No. 01BL4767054
Qualified in Queens County
Commission Expires Feb. 28, 2019



**Justice Center for the
Protection of People
with Special Needs**

ANDREW M. CUOMO
Governor

REPORT OF SUBSTANTIATED FINDING

May 9, 2016

Ms. Marie Chery
175 Louis Avenue
Elmont, NY 11003

Re: VPCR Case Serial Number 551048605

Dear Ms. Chery:

On April 4, 2016, the Justice Center received a report alleging that you engaged in conduct constituting abuse or neglect of a person receiving services under your care. Those allegations were investigated, and we now inform you of the outcome of that investigation.

The findings of the investigation under the Case Serial Number referred to above are as follows:

Allegation 1

It was alleged that on March 1, 2016, at the Newport Road ICF, located at 247 Newport Road, Uniondale, New York, while a custodian, you committed abuse (obstruction of reports of reportable incidents) when you failed to report a reportable incident involving a service recipient to the VPCR in a timely manner.

This allegation has been **SUBSTANTIATED** as Category 3 abuse (obstruction of reports of reportable incidents) pursuant to Social Services Law § 493(4)(c).

Notice of Right to Request Amendment of Substantiated Report

You have the right to request an amendment of the report of substantiated charges by providing a signed written statement setting forth the basis for the request to the Justice Center Administrative Appeals Unit. This written request for amendment must be received by the Justice Center within 40 days of the date of this notice. Upon receipt of your request for an amendment, the Administrative Appeals Unit will conduct and complete a review of the substantiated report. That review of the record includes the investigative file, the substantiated report, the request for amendment setting forth the basis of your request and any additional evidence you submit with your request. The Administrative Appeals Unit will notify you of its findings. The findings may include: (1) upholding the report in its entirety; (2) modifying the

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A substantiated Category 3 finding of abuse or neglect has been made against you. A substantiated Category 3 finding of abuse or neglect will not result in your name being placed on the VPCR Staff Exclusion List. Reports that result in a substantiated Category 3 finding will be sealed after five years.

If you want to request amendment of the substantiated report, send your written request to:

Administrative Appeals Unit
Justice Center for the Protection of People with Special Needs
161 Delaware Avenue
Delmar, NY 12054

The written request should include your full name, address and the VPCR case serial number appearing in the upper left hand corner of this letter.

For more information about the amendment process, the regulation governing the Administrative Adjudication Process for Substantiated Cases of Abuse and Neglect (14 NYCRR 700.4) is available on the Justice Center's website at www.justicecenter.ny.gov.

Office of General Counsel
NYS Justice Center for the Protection of People with Special Needs
161 Delaware Avenue
Delmar, NY 12054

ANDREW M. CUOMO
Governor

REPORT OF SUBSTANTIATED FINDING

May 9, 2016

Ms. Marie Chery
175 Louis Avenue
Elmont, NY 11003

Re: VPCR Case Serial Number 551047958

Dear Ms. Chery:

On March 16, 2016, the Justice Center received a report alleging that you engaged in conduct constituting abuse or neglect of a person receiving services under your care. Those allegations were investigated, and we now inform you of the outcome of that investigation.

The findings of the investigation under the Case Serial Number referred to above are as follows:

Allegation 1

It was alleged that on March 1, 2016, at the Newport Road ICF, located at 247 Newport Road, Uniondale, New York, while a custodian, you committed abuse (obstruction of reports of reportable incidents) when you failed to report a reportable incident involving a service recipient to the VPCR in a timely manner.

The conduct described in this allegation was addressed in a determination notice sent to you on May 9, 2016 under Case Serial Number 551048605. In that instance, a substantiated Category 3 finding was made against you. Because an investigation has revealed that the alleged act of abuse or neglect in this incident, Case Serial Number 551047958, was addressed in the previous determination under Case Serial Number 551048605, the Justice Center has closed its investigation of the allegation.

Allegation 2

It was alleged that on February 29, 2016, at the Newport Road ICF, located at 247 Newport Road, Uniondale, New York, while a custodian, you committed abuse (obstruction of reports of reportable incidents) when you failed to report a reportable incident involving a service recipient to the VPCR in a timely manner.



**Justice Center for the
Protection of People
with Special Needs**

ANDREW M. CUOMO
Governor

REPORT OF SUBSTANTIATED FINDING

May 9, 2016

Ms. Marie Chery
175 Louis Avenue
Elmont, NY 11003

Re: VPCR Case Serial Number 551047958

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This allegation has been SUBSTANTIATED as Category 3 abuse (obstruction of reports of reportable incidents) pursuant to Social Services Law § 493(4)(c).

Notice of Right to Request Amendment of Substantiated Report

You have the right to request an amendment of the report of substantiated charges by providing a signed written statement setting forth the basis for the request to the Justice Center Administrative Appeals Unit. This written request for amendment must be received by the Justice Center within 40 days of the date of this notice. Upon receipt of your request for an amendment, the Administrative Appeals Unit will conduct and complete a review of the substantiated report. That review of the record includes the investigative file, the substantiated report, the request for amendment setting forth the basis of your request and any additional evidence you submit with your request. The Administrative Appeals Unit will notify you of its findings. The findings may include: (1) upholding the report in its entirety; (2) modifying the report; or (3) finding that the report is unsubstantiated. If the report is not amended from substantiated to unsubstantiated, you will be notified of a date for an administrative hearing.

A substantiated Category 3 finding of abuse or neglect has been made against you. A substantiated Category 3 finding of abuse or neglect will not result in your name being placed on the VPCR Staff Exclusion List. Reports that result in a substantiated Category 3 finding will be sealed after five years.

If you want to request amendment of the substantiated report, send your written request to:

Administrative Appeals Unit
Justice Center for the Protection of People with Special Needs
161 Delaware Avenue
Delmar, NY 12054

The written request should include your full name, address and the VPCR case serial number appearing in the upper left hand corner of this letter.

For more information about the amendment process, the regulation governing the Administrative Adjudication Process for Substantiated Cases of Abuse and Neglect (14 NYCRR 700.4) is available on the Justice Center's website at www.justicecenter.ny.gov.

Office of General Counsel
NYS Justice Center for the Protection of People with Special Needs
161 Delaware Avenue
Delmar, NY 12054



Case 2:16-cv-00308-ENV-RLM Document 1 Filed 01/16/18 Page 27 of 78 PageID #: 27

NEW YORK
STATE OF
OPPORTUNITY
**PROTECTION OF PEOPLE
WITH SPECIAL NEEDS**

ANDREW M. CUOMO
Governor

**Administrative Appeals Unit Notice of Administrative Review Determination -
Substantiated**

January 13, 2017

Ms. Marie Chery
PO Box 230417
Hollis, NY 11423-0417

Re: VPCR Master Case Number 551047958
VPCR Adjudication Case Number 521051720

Dear Ms. Chery:

Pursuant to Social Services Law § 494 an administrative review of the record has been conducted by the Justice Center Administrative Appeals Unit based upon your request for amendment of the substantiated report of abuse or neglect regarding the above referenced case.

The Administrative Appeals Unit has reviewed the investigative file, the substantiated report, the request for amendment and any additional evidence submitted with your request. As a result of the review, the Administrative Appeals Unit has determined that a preponderance of evidence supports the finding(s) of abuse or neglect as well as the category level(s), and the report is upheld in its entirety. As such, your request for amendment of the substantiated report is denied.

Your request for amendment of the substantiated report of abuse or neglect will now be referred to the Administrative Hearings Bureau of the Justice Center. The Administrative Hearings Bureau will initiate the hearing by scheduling a pre-hearing conference. You will receive notice of the date, time and place of the pre-hearing conference from the Administrative Hearings Bureau at least 20 days prior to the scheduled date. An administrative hearing will be scheduled at the time of the pre-hearing conference.

At the hearing, the Justice Center will be required to produce evidence to support the findings of the substantiated report by a preponderance of the evidence. The questions to be addressed at the hearing are whether there is a preponderance of evidence to support a finding of abuse or neglect, and pursuant to Social Services Law § 493(4), the category level(s) of abuse or neglect.

If you are successful at the hearing and it is determined that a preponderance of the evidence does

not support a finding of abuse or neglect, the report will be amended to unsubstantiated and sealed pursuant to Social Services Law sections §§ 493(3)(d) and 496(1).

If you are not successful at the hearing, the Justice Center will confirm its findings in the Vulnerable Persons' Central Register (VPCR).

You have been found responsible for a Category 3 offense. A substantiated Category 3 finding of abuse or neglect will NOT result in your name being placed on the VPCR Staff Exclusion List. Reports that result in a substantiated Category 3 finding will be sealed after five years

If, upon review of this information, you wish to decline your right to a hearing, please submit your request in writing to the Administrative Hearings Bureau.

For more information about the administrative hearing process, the regulation governing the Administrative Adjudication Process for Substantiated Cases of Abuse and Neglect (14 NYCRR Part 700) is available on the Justice Center's website at <http://www.justicecenter.ny.gov> (click on "Resources").

Please direct any further correspondence regarding this matter to:

**Administrative Hearings Bureau
NYS Justice Center for the Protection of People with Special Needs
401 State Street
Schenectady, New York 12305.**

Administrative Appeals Unit
NYS Justice Center for the Protection of People with Special Needs

JUSTICE CENTER FOR THE
Protection of People
with Special Needs

ANDREW M. CUOMO
Governor

DENISE M. MIRANDA
Executive Director

ADMINISTRATIVE HEARINGS UNIT

July 24, 2017

Ms. Marie Chery
P.O.Box 230417
Hollis, NY 1143-0417

NOTICE OF PRE-HEARING CONFERENCE – NEW DATE – NEW TIME

Substantiated Case of Abuse or Neglect Administrative Hearing
VPCR Master Case Number: 551047958
VPCR Adjudication Case Number: 521051720

Dear Ms. Chery:

As a result of the findings of the Administrative Appeals Unit on the above-referenced substantiated report on file with the New York State Justice Center for the Protection of People with Special Needs (Justice Center), you have been scheduled for a **TELEPHONE** Pre-Hearing Conference as follows:

Telephone Conference date: Wednesday, August 30, 2017 at 10:15 a.m.
Judge: David Molik - (518) 387-3682

This telephone appearance will be a Pre-Hearing Conference only. The full Hearing will not be conducted on this date. However, you must telephone Judge Molik at (518) 387-3682 at the prescribed date and time to participate in the Pre-Hearing Conference. If you fail to appear by telephone, you will lose your right to challenge your substantiated finding.

At the Pre-Hearing Conference, each side shall identify and arrange to exchange witness information and the documents and or evidence that each side intends to introduce when the Hearing is held. You should be prepared to tell the Administrative Law Judge about any witnesses that will be testifying on your behalf and any documents that you want the Administrative Law Judge to consider as evidence for you. If you subsequently change your mind about your witnesses and/or your other evidence, you will not be bound by what you said at the Pre-Hearing Conference and you will be allowed to present your case as you wish at the Hearing, as long as the evidence is relevant to the subject matter of the Hearing.

At the Pre-Hearing Conference, both sides and the Administrative Law Judge will agree upon available dates for the Hearing.

If you are not able to participate on the above scheduled date and time and wish to have the matter moved to a future date, please call (518) 387-3682 and explain the reason. You must also write to the address below explaining why you need the scheduled date moved. Please include a copy of the first page of this letter. Your letter should be sent no later than three (3) days prior to the scheduled conference date.

If you do not appear by telephone at the above date and time and have not written to request the scheduled Pre-Hearing Conference date to be moved, you will be deemed to be in default, which

means you will lose your right to a Hearing and the report will remain substantiated. If you do not wish to proceed with (withdraw from) the Pre-Hearing Conference, you need to do so in writing prior to the scheduled date or do so orally on the record at the Pre-Hearing Conference. Please note that a withdrawal will result in the substantiated report remaining on file with the Justice Center. If you fail to appear at the Pre-Hearing Conference, or if you withdraw from the Pre-Hearing Conference, the existence of the report(s) will be disclosed to provider agencies authorized to inquire pursuant to Section 495(2) and 424-a of the Social Services Law and your name will remain on the Vulnerable Person's Central Register.

Any written response to this letter such as a request to move the date or time (adjourn), or telling us you do not wish to have a Hearing should be faxed (518-417-6648) or mailed to:

Administrative Hearings Unit
New York State Justice Center for the
Protection of People with Special Needs
401 State Street
Schenectady, New York 12305

You have the right to hire an attorney and be represented by an attorney or representative to help you at the hearing. If you want legal assistance and cannot afford a lawyer, you may be able to obtain free legal assistance by contacting your local legal aid organization. However, this office will not provide an attorney to represent you, nor pay for an attorney you may choose to retain. If you have hired an attorney, to represent you, please have that attorney send a letter noting that appearance to this office. You also have the right to present evidence on your own behalf, to produce witnesses, to cross-examine witnesses and to review documents that the Justice Center intends to offer into evidence at the hearing.

When the Hearing occurs, subsequent to this Pre-Hearing Conference, the issues to be decided at the Hearing are:

- Whether you have been shown by a preponderance of the evidence to have committed the act or acts giving rise to the substantiated report;
- Whether the substantiated allegations constitute abuse or neglect and;
- Pursuant to Social Services Law § 493(4), the category level of abuse that such act or acts constitute.

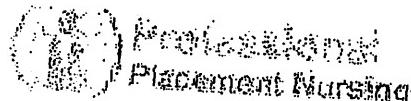
If it is decided that abuse or neglect was not committed, the report received by the Vulnerable Persons' Central Register will be amended to reflect that decision.

Sincerely,



David Molik
Director, Administrative Hearings Unit

cc: Amanda Smith, Esq.
Administrative Appeals Unit



Private Duty Weekly Time Sheet

Private Duty Weekly Time Sheet
Submit by no later than 9pm every Thursday to FAX#: 631-982-4734
Time Signed must be signed by Patient or family on date of service

Employee Name

THE
PENINS

—
—
—

• (F) 101-13744-1

Week Ending Thursday

Facility Workers

Patient Name -

Patient Name: _____
Use a separate time sheet for each hospital, facility or private duty patient.

OFFICE USE Service Code RN or CNA	Patient Name: _____ Use a separate time sheet for each hospital, facility or private duty patient.					
	Date (Please complete)	Unit / Floor (Be specific)	Time In (Please circle)	Time Out (Please circle)	Total Shift Hours Worked	Patient/Family Member Signature Manager / Supervisor Signature I understand that my signature below validates the hours worked as indicated.
RN / CNA	Fri		am / pm	am / pm		
RN / CNA	Sat		am / pm	am / pm		
RN / CNA	Sun		am / pm	am / pm		
RN / CNA	Mon		am / pm	am / pm		
RN / CNA	Tue		am / pm	am / pm		
RN / CNA	Wed		am / pm	am / pm		
RN / CNA	Thu		am / pm	am / pm		
						Total Hours Worked

Note: TIMESHEET MUST BE SIGNED

By signing below, I affirm that the foregoing is correct to the best of my knowledge. I understand
herein may constitute fraud, and can subject me to consequences.

TIMESHEET MUST BE SIGNED

Total Hours Worked

TIME SHEET MUST BE SIGNED ***

Total Hours Worked

By signing below, I affirm that the foregoing is correct to the best of my knowledge. I understand that falsifying any record herein may constitute fraud, and can subject me to consequences both civil and criminal.

Employee Signature:

Employee Signature:

Date: _____ / _____ / _____



Earnings Statement

P.L.U.S. GROUP HOMES INC.
1228 WANTAGH AVENUE
WANTAGH, NY 11793

Period Beginning:
08/15/2015
Period Ending:
08/28/2015
Pay Date:
09/04/2015

CO FILE SEAT CLOCK VCHA TO 0.00
5B3 006285 523 0000060093 1

Taxable Marital Status: Married
Exemptions/Allowances:
Federal: 1
NY: 1

0000000093

MARIE C CHERY
175 LOUIS AVE
ELMONT, NY 11003

Earnings	rate	hours	this period	year to date
Reg	\$9.00	89.00	\$1,040.00	\$2,495.00
Overt	\$9.00	84.00	\$1,638.00	
Gross Pay			\$2,678.00	4,563.00

Important Notes
YOUR COMPANY'S PHONE NUMBER IS 516-409-9450

Deductions	Federal Income Tax	State Income Tax	Net Pay
Social Security Tax	-166.04	-282.91	
Medicare Tax	-38.83	-66.16	
NY State Income Tax	-137.89	-197.80	
NY SU/SDI Tax	-1.20	4.48	
Net Pay	\$2,040.51	\$0.00	\$2,040.51
Checking	-2,040.51		
Net Check			

Your federal taxable wages this period are
\$2,678.00

520-2017-01678



**U.S. EQUAL OPPORTUNITY COMMISSION
INTAKE QUESTIONNAIRE**

Please immediately complete this entire form and return it to the U.S. Equal Employment Opportunity Commission ("EEOC"). **REMEMBER**, a charge of employment discrimination must be filed within the time limits imposed by law, within 180 days or in some places within 300 days of the alleged discrimination. When we receive this form, we will review it to determine EEOC coverage. Answer all questions completely, and attach additional pages if needed to complete your responses. If you do not know the answer to a question, answer by stating "not known." If a question is not applicable, write "N/A." (PLEASE PRINT)

1. Personal Information

Last Name: CHERY First Name: MARIE MI: CAROLE
 Street or Mailing Address: 175 LOUIS AVE Apt or Unit #: _____
 City: ELMONRT County: MASSON State: NY Zip: 11003
 Phone Numbers: Home: (516) 444-7498 Work: () _____
 Cell: (516) 444-7498 Email Address: onCELESTIN22010@HOTMAIL.COM
 Date of Birth: 01-22-1973 Sex: Male Female Do You Have a Disability? Yes No
 Please answer each of the next three questions.
 i. Are you Hispanic or Latino? Yes No
 ii. What is your Race? Please choose all that apply. American Indian or Alaskan Native Asian White
 Black or African American Native Hawaiian or Other Pacific Islander
 iii. What is your National Origin (country of origin or ancestry)? _____

Please Provide The Name Of A Person We Can Contact If We Are Unable To Reach You:

Name: JOCELYN CHERY Relationship: HUSBAND
 Address: 175 LOUIS AVE City: ELMONRT State: NY Zip Code: 11003
 Home Phone: (516) 270-0495 Other Phone: () N/A

2. I believe that I was discriminated against by the following organization(s): (Check those that apply)

Employer Union Employment Agency Other (Please Specify) by MANAGEMENT

Organization Contact Information (If the organization is an employer, provide the address where you actually worked. If you work from home, check here and provide the address of the office to which you reported.) If more than one employer is involved, attach additional sheets.

Organization Name: P.L.U.S. GROUP HOME, INC

Address: 1228 WANTAGH AVE County: _____
 City: WANTAGH State: NY Zip: 11793 Phone: (516) 409-9454

Type of Business: _____ Job Location if different from Org. Address: _____

Human Resources Director or Owner Name: TERESA CANCILLA Phone: (516) 409-9450

Number of Employees in the Organization at All Locations: Please Check (J) One

Fewer Than 15 15 - 100 101 - 200 201 - 500 More than 500

3. Your Employment Data (Complete as many items as you are able.) Are you a federal employee? Yes No

Date Hired: 10-18-15 Job Title At Hire: DIRECT CARE

Pay Rate When Hired: \$13.26 Last or Current Pay Rate: \$13.26

Job Title at Time of Alleged Discrimination: 3-16-16 Date Quit/Discharged: 3-16-16

Name and Title of Immediate Supervisor: _____

1 in 10 This Form is Not Valid

4. What is the reason (basis) for your claim of employment discrimination?

FOR EXAMPLE, if you feel that you were treated worse than someone else because of race, you should check the box next to Race. If you feel you were treated worse for several reasons, such as your sex, religion and national origin, you should check all that apply. If you complained about discrimination, participated in someone else's complaint, or filed a charge of discrimination, and a negative action was threatened or taken, you should check the box next to Retaliation.

- Race Sex Age Disability National Origin Religion Retaliation Pregnancy Color (typically a difference in skin shade within the same race) Genetic Information; circle which type(s) of genetic information is involved:
 i. genetic testing ii. family medical history iii. genetic services (genetic services means counseling, education or testing)

If you checked color, religion or national origin, please specify: _____

If you checked genetic information, how did the employer obtain the genetic information? _____

Other reason (basis) for discrimination (Explain): _____

5. What happened to you that you believe was discriminatory? Include the date(s) of harm, the action(s), and the name(s) and title(s) of the person(s) who you believe discriminated against you. Please attach additional pages if needed.
 (Example: 10/02/06 - Discharged by Mr. John Soto, Production Supervisor)

A. Date: 6-18-16 Action: Fired by NATOUCHKA VOIGT TRACEY SMITH

Name and Title of Person(s) Responsible: NATOUCHKA VOIGT SUPERVISOR

B. Date: 3-16-16 Action: NATOUCHKA SAID TO ME YOU NEED TO SAY THANKS TO TRACEY I SAY WHY SHE SAID IF I WAS FIRED SOMEONE I DON'T THINK

Name and Title of Person(s) Responsible: TERESA CAVICILIA R.N. EXECUTIVE DIRECTOR

6. Why do you believe these actions were discriminatory? Please attach additional pages if needed.

NATOUCHKA SAID YOU NEED HELP YOURSELF MARIE YOU HAVE A BAD DISABILITY THIS JOB IS NOT FOR YOU I REPORT IT TO TERESA ON 3-16-16

7. What reason(s) were given to you for the acts you consider discriminatory? By whom? His or Her Job Title?

ON 3-16-16 I COME TO SEE TRACEY SMITH REGARDING A PERMANENT POSITION RATOUCHKA SAID MARIE I WANT TO TALK TO YOU ABOUT ANTHONY INCIDENT I SAY,

8. Describe who was in the same or similar situation as you and how they were treated. For example, who else applied for the same job you did, who else had the same attendance record, or who else had the same performance? Provide the race, sex, age, national origin, religion, or disability of these individuals, if known, and if it relates to your claim of discrimination. For example, if your complaint alleges race discrimination, provide the race of each person; if it alleges sex discrimination, provide the sex of each person; and so on. Use additional sheets if needed.

If the persons in the same or similar situation as you, who was treated better than you?
 Full Name _____

Race, Sex, Age, National Origin, Religion or Disability _____

Job Title _____

Description of Treatment _____

KELSY NICALA S SHE WAS SEXUAL HARASSMENT BY HER ASSISTANT MANAGER THE COMPANY WAS FIRED HER BECAUSE SHE REPORTED THE HARASSMENT

Of the persons in the same or similar situation as you, who was treated *worse* than you?

Full Name

Race, Sex, Age, National Origin, Religion or Disability

Job Title

Description of Treatment

A. _____

B. _____

Of the persons in the same or similar situation as you, who was treated the *same* as you?

Full Name

Race, Sex, Age, National Origin, Religion or Disability

Job Title

Description of Treatment

C. _____

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13. Are there any witnesses to the alleged discriminatory incidents? If yes, please identify them below and tell us what they will say. (Please attach additional pages if needed to complete your response)

<u>Full Name</u>	<u>Job Title</u>	<u>Address & Phone Number</u>	<u>What do you believe this person will tell us?</u>
A. <u>Keisy Nicolas</u>			<u>She will say on 9-24-2015 incident was happen Heller was going</u>
B. <u>FOR EYE Surgery she want me to take responsibility for something I did not do MARJORIE SHE IS A MANAGER FOR me pick, H</u>			

14. Have you filed a charge previously on this matter with the EEOC or another agency? Yes No

15. If you filed a complaint with another agency, provide the name of agency and the date of filing: _____

16. Have you sought help about this situation from a union, an attorney, or any other source? Yes No
Provide name of organization, name of person you spoke with and date of contact. Results, if any?

N/A

Please check one of the boxes below to tell us what you would like us to do with the information you are providing on this questionnaire. If you would like to file a charge of job discrimination, you must do so either within 180 days from the day you knew about the discrimination, or within 300 days from the day you knew about the discrimination if the employer is located in a place where a state or local government agency enforces laws similar to the EEOC's laws. If you do not file a charge of discrimination within the time limits, you will lose your rights. If you would like more information before filing a charge or you have concerns about EEOC's notifying the employer, union, or employment agency about your charge, you may wish to check Box 1. If you want to file a charge, you should check Box 2.

BOX 1 I want to talk to an EEOC employee before deciding whether to file a charge. I understand that by checking this box, I have not filed a charge with the EEOC. I also understand that I could lose my rights if I do not file a charge in time.

BOX 2 I want to file a charge of discrimination, and I authorize the EEOC to look into the discrimination I described above. I understand that the EEOC must give the employer, union, or employment agency that I accuse of discrimination information about the charge, including my name. I also understand that the EEOC can only accept charges of job discrimination based on race, color, religion, sex, national origin, disability, age, genetic information, or retaliation for opposing discrimination.

Mari C. Cherv
Signature

3/16/17
Today's Date

PRIVACY ACT STATEMENT: This form is covered by the Privacy Act of 1974: Public Law 93-579. Authority for requesting personal data and the uses thereof are:

- 1) FORM NUMBER/TITLE/DATE. EEOC Intake Questionnaire (9/20/08).
- 2) AUTHORITY. 42 U.S.C. § 2000e-5(b), 29 U.S.C. § 211, 29 U.S.C. § 626. 42 U.S.C. 12117(a)
- 3) PRINCIPAL PURPOSE. The purpose of this questionnaire is to solicit information about claims of employment discrimination, determine whether the EEOC has jurisdiction over those claims, and provide charge filing counseling, as appropriate. Consistent with 29 CFR 1601.12(b) and 29 CFR 1626.8(c), this questionnaire may serve as a charge if it meets the elements of a charge.
- 4) ROUTINE USES. EEOC may disclose information from this form to other state, local and federal agencies as appropriate or necessary to carry out the Commission's functions, or to disciplinary committees investigating complaints against attorneys representing the parties to the charge, or to congressional offices in response to inquiries from parties to the charge, to
- 5) WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION. Providing this information is voluntary but the failure to do so may hamper the Commission's investigation of a charge. It is not mandatory that this form be used to provide the requested information.



520-2017-01678

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
INTAKE QUESTIONNAIRE**

Please immediately complete this entire form and return it to the U.S. Equal Employment Opportunity Commission ("EEOC"). **REMEMBER**, a charge of employment discrimination must be filed within the time limits imposed by law, within 180 days or in some places within 300 days of the alleged discrimination. When we receive this form, we will review it to determine EEOC coverage. Answer all questions completely, and attach additional pages if needed to complete your responses. If you do not know the answer to a question, answer by stating "not known." If a question is not applicable, write "N/A." (PLEASE PRINT)

1. Personal Information

Last Name: CHERY First Name: MARIE MI: CAROLE

Street or Mailing Address: 175 LOUIS AVE Apt or Unit #: _____

City: ELMONT County: WASSAU State: NY Zip: 11003

Phone Numbers: Home: (516) 444-4498 Work: ()

Cell: (516) 444-4498 Email Address: JOCELYNCHERY2201@HOTMAIL.COM

Date of Birth: 01-22-1973 Sex: Male Female Do You Have a Disability? Yes No

Please answer each of the next three questions. i. Are you Hispanic or Latino? Yes No

ii. What is your Race? Please choose all that apply. American Indian or Alaskan Native Asian White

Black or African American Native Hawaiian or Other Pacific Islander

iii. What is your National Origin (country of origin or ancestry)? _____

Please Provide The Name Of A Person We Can Contact If We Are Unable To Reach You:

Name: JOCELYN CHERY Relationship: HUSBAND

Address: 175 LOUIS AVE City: ELMONT State: NY Zip Code: 11003

Home Phone: (516) 270-0495 Other Phone: () N/A

2. I believe that I was discriminated against by the following organization(s): (Check those that apply)

Employer Union Employment Agency Other (Please Specify) by MANAGEMENT

Organization Contact Information (If the organization is an employer, provide the address where you actually worked. If you work from home, check here and provide the address of the office to which you reported.) If more than one employer is involved, attach additional sheets.

Organization Name: P.L.U.S. GROUP HOME, INC

Address: 1228 WATTAUGH AVE County: _____

City: WATTAUGH State: NY Zip: 11793 Phone: (516) 409-9454

Type of Business: _____ Job Location if different from Org. Address: _____

Human Resources Director or Owner Name: TERESA CANCILLA Phone: (516) 409-9450

Number of Employees in the Organization at All Locations: Please Check (J) One

Fewer Than 15 15 - 100 101 - 200 201 - 500 More than 500

3. Your Employment Data (Complete as many items as you are able.) Are you a federal employee? Yes No

Date Hired: 01-18-15 Job Title At Hire: DIRECT CARE

Pay Rate When Hired: \$13.26 Last or Current Pay Rate: \$13.26

Job Title at Time of Alleged Discrimination: 3-16-16 Date Quit/Discharged: 3-16-16

Name and Title of Immediate Supervisor: _____

If Job Application Date You Applied for Job 1-16-16 ... 1-16-16

Marie Chery
175 Louis Avenue
Elmont, NY 11003

June 8, 2016

Administrative Appeals Unit
Justice Center for the Protection of People with
Special Needs
161 Delaware Avenue
Delmar, NY 12054

Re: Letter-Brief setting forth my Version of the Events transpiring my
Arbitrary and Capricious Termination on Muted Abuse or Neglect and Grounds in
Regard to the Unfair Decision predicated on no Fact-Findings of Wrongdoing,
inasmuch as there was no Abuse or Neglect at the Outset – Finding Neglect or Abuse
on one Violation is excessive Punishment. Thus, an Expungement or Step 1 Paper
Review of the decision is respectfully requested.

Legal Action will be ensued brachystochronically

VPCR Case Serial Number 551047958

STATEMENT OF CASE

As requested, I, Marie Chery, respectfully submit this letter-style memo-brief, to wit, my appeal, or the request for the amendment of the report, setting forth my version of the events transpiring my wrongful/excessive punishment, of which an uncorroborated report, based on innuendoes and misfeasance, was submitted for abuse or neglect of a resident under the auspices of Newport Road ICF -- for which unfounded act was not proven. Only I have been singled out for abuse or neglect when in fact it was imperative that I report the abuse perpetrated by the very institution that imposed this punishment on my persona to the office that oversaw such abuse. Had I not done so, another type of charge would still be lodged to that effect. As such, I had not been neglected in the pursuit of my duties inasmuch as I was very active determining what transpired and reported so immediately. To paraphrase what Tracey Smith said to me on March 18, 2016, she did ask me whether or not any attempts were made to Justice Center relative to the incident, when I said, "yes", she replied that "we could no longer accept any grievance" and that "we'll not accept you at our institution any longer." "I will make sure that you never work in this field again." "I will report you to appropriate authorities."

At first, I went on March 16, 2016 to visit Tracey Smith for a permanent position within the same field and job assignments. Then Natouchka Voigt came over and requested that she talked to me about the incident that occurred. Natouchka told me once I reported the incident to her, you should not have reported it to the manager. So, there's been a cover-

up throughout this matter and that I was terminated simply as a pretext for failure to report un-reportable incident involving a service recipient to the VPCR in a timely.

I was simply trying to perform my duties and exercise my responsibilities in strict accordance with the law. Nonetheless, Newport Road ICF was simply interested in concealing the facts of the matter, rather than revealing what's set forth. While in fact I was exercising my due diligence to extend my heartfelt help and I was singled out in the process. For the record, I solely reported what was transpired, but was not involved per se in any incident. Thus, Justice Center either misconstrued the records or sided with Newport Road ICF just for the sole purpose of destroying my career.

Nonetheless, I was terminated on an unsubstantiated Category 3 finding of abuse or neglect as a pretext for failure to report an incident in a timely manner, which was unfounded, because it was not deemed "abuse or neglect or a failure to provide adequate care". The employer wanted me to consult with its staff before proceeding to the Justice Center, whereas it reported to the same that I failed to report in a timely manner just to soothe its wrongful termination of my employment.

First of all, I was wrongfully labeled the person responsible for the untimely reporting of the said incident, inasmuch as I was railroaded for the immediate reporting to Justice Center. So, I was not ignoring the recipient's reportable incident to the VPCR, and I was in fact exercising my responsibility in time. The Newport Road ICF was simply rushing to judgment, and the Justice Center simply was accommodating its sister institution without any objective standard. What a conundrum! While Newport Road ICF sets rules and policies governing employees' behavior and actions, why has it cast a scant eye on its misreporting the incident in the process of diverting the general public's attention to the real issues? Did Newport Road ICF and/or NYS Justice Center have all the fact-findings to terminate me on that basis? Does it stand to reason that I, whose job assignments encompassed reporting incidents to Justice Center, am also the subject of being terminated for quickly reporting an incident deemed reportable to the Justice Center and then labeled abusive or neglectful for reporting such an incident over the objection of the employer that I worked for, whereas I was exercising my due diligence to stop the abuse of that resident at the hands of the very institution responsible for protecting her? Let the record reflect that since then nothing has happened to the other personnel involved, including but not limited to, Tracey Smith, whereby one of them got promoted, and I have still been punished for doing nothing wrong, and this practice is unfair if not downright deceptive and discriminatory.

While Newport Road ICF could not prove that I was not providing adequate care due to ignoring the resident's reportable involvement in a timely manner, it has promoted the other two who were in fact disagreed vehemently with Marie Chery's prompt reporting to the Justice Center to excoriate me on the telephone. They both were spared. Why? Is it an origin-based discriminatory animus or a grave indifference or perceived discrimination? While they both are still working at their position, let alone being promoted, Newport Road ICF used the uncorroborated allegations of abuse, neglect, or providing inadequate care by ignoring the recipient's reportable incident in a timely manner against me to discriminatorily punish me.

Therefore, Newport Road ICF adversely arbitrarily terminated/excessively punished me, thereby used one-instance allegations, which had never been proven against me, unreasonably and unfairly, in clear violation of due process of law, as embedded in **The Fourteenth Amendment Due Process Clause, and Employment Administrative Procedure Act, 1 N.Y. Jur., Administrative Law, § 184, p. 609.** Had I exercised my due diligence when I chose to report the incident right to the Justice Center without being subjected to the demand of Newport Road ICF's undue influence?

I further request that this Office, and all other concerned ones, bend backward and construe my side of the incident under the interpretation of **Haines v. Kerner**, 404 U.S. 519, 92 S. Ct .594, 30 L Ed. 2d 65 (1972) requiring that pro se pleadings be read liberally); **Soto v. Walker**, 44 F. 3d 169, 173 (2d Cir. 1995) (pro se paper should be interpreted to raise the strongest arguments that they suggest"), and then ponder carefully what's set forth so that they can judge for themselves whether or not I have deserved this admonishment without affording me my due process rights to assert my version of the events leading to my termination/excessive punishment on a muted and single unproven issue – the inadequate care/failure to report a reportable incident allegations involving a service recipient to the VPCR in a timely manner, which have been underpinned just to punish me, and only me, per se. That kind of broken window and chicken sink theory won't stand Equal Opportunity in Employment, Title VI of the Civil Rights Act 1964 (42 U.S.C. 2000 et seq.)(d)(1) and Title VIII 1964 of the Civil Rights Act of 1974. Thus, I will file a Complaint against all concerned for their nonfeasance.

STATEMENT OF FACT

Here are the particulars: I am personally responsible for the reporting of all incidents involving residents or service recipients to the VPCR. I never neglected my responsibilities, and was always at the forefront to do so in a timely manner. Accordingly, I have taken abuse and neglect very seriously, and would refrain from abusing other similarly-situated individuals. When I decided to work in this field, I wanted to make a difference in the resident's life, as well as advocating for them. I have always treated and continue to treat my residents with respect, dignity and concern. First, as for resident at issue, I was in fact reporting such incident in a quicker manner than the institution for which I worked would want me to. When I did so ahead of Newport Road ICF, officials at Newport Road ICF were furious, including Tracey Smith, who called me on March 18, 2016, to excoriate me for reporting the incident to the Justice Center without first talking to them. Second, when Tracey Smith called me on March 18, 2016, she made it clear that Newport Road ICF wanted the matter to be moot. Three, even assuming arguendo that this allegation was to be true, this alone did not level to Category 3 neglect pursuant to Social Services Law Sec. 493(4)C.

STATEMENT OF LAW

The burden of proof in disciplinary matters rests with the employer, and the employer must meet that burden by providing the charges against an employee by a preponderance

of the evidence. The test to establish whether a rule or action is arbitrary and capricious involves determining if the action is justified by examining whether there is some foundation on the record. See 1 N.Y. Jur., Administrative Law, supra. "An action is arbitrary when it is without a sound basis or reason and is promulgated without regard to the facts." Pell v. Board of Education, 34 N.Y.2d 222, 313 N.E.2d 321 (1974). Although discretion is generally given to the agency, an administrative action is to be upheld only when there is evidence that constitutes a rational basis to support it. See Brodsky v. Zagata, 222 A.D.2d 48, 646 N.Y.S.2d 188 (3d Dep't 1996).

Here, the Category 3 Neglect imposed by NYS Justice Center should be brushed off and struck down/ amended as being too harsh on a person who was too eager to report an abuse, but was excoriated by that institution for so quickly reporting it. The report by Newport Road ICF was arbitrary and capricious because he/she has provided no justification in reaching his/her decision or in carrying the policy of this institution. By the way, they have violated their own policy when trying to coerce me not to report the alleged abuse to Justice Center. Besides, it centered its decision simply on a broad issue – "**failure to report a reportable incident involving a service recipient to the VPCR in a timely manner**", without defining exactly what I did wrong. I was quick during the process of helping the resident by reporting what transpired that Newport Road ICF did not like my devotion, in part because Tracey Smith and her acolytes would always want to keep the incident unreported. For the record, I was summoned to the administrative office for being too hasty in reporting the matter to the Justice Center. Therefore, the notion of not reporting so in a timely manner was a made-up story just to soothe their wrongful employment decision. At the very least, I was rushing to show my willingness to respond to the needs of that service recipient.

Moreover, residents in group homes are trained to help themselves, to wit, it was an isolated incident that the resident ultimately fell, in part because Tracey Smith was eager to misconstrue the records to the benefits of Newport Road ICF. With all due respect, Newport Road ICF officials betray a lack of understanding of the uniqueness of their role as arbiters of fact. They ignore all the crucial facts that led me to that incident, where I, also, fell victim for being honest and was used as a scapegoat.

The notion that I should be subject to Category 3 neglect or Abuse does not give rise to the level of punishment and is pale in comparison to deep-seated neglect or abuse endured by other residents. That my due diligence to help the resident by rushing to report that incident had resulted in an anomaly is no way justifying punishing me to Category 3 Neglect pursuant to Social Services Law Sec. 493(4)C. I have provided a prompt reporting to the Justice Center and to say otherwise is pretextual and borders on conspiracy and **earlier hear-says or story of abuse fomented by Newport Road ICF**, who has had an axe to grind, or unknown party with a grudge against me. Thus, this action of suspension and/or termination is contentious and wholly out of line with any sound established policy. A **Step 1 Paper Review or thorough expungement** of the existing decision is the viable way to resolve the issue to the mutual assent of all concerned so that a prolonged litigation could be warded off.

It's undisputed that I was labeled as such because they harbor biasedness on every issue involving me. How could a decision have been rendered without all the facts of the case? How could a letter of disciplinary not have given to me? How could I have been treated so unfairly by an institution that I worked for almost one year to the benefits of the residents? In the instant matter, **only one side of the story was heard and decided thereon, and the underpinning**

Newport Road ICF used to suspend/terminate my employment was un-reportable incident or failure to report a reportable incident involving a service recipient to the VPCR in a timely manner -- allegations that had never been proven by the employer. Why did they reason out that way? They failed to equitably fairly judge me based on my bona fide persona, whereas they used any conspirational, third-party personal vendetta to punish and destroy me. At this juncture, no one should turn a deaf ear on that. They again condoned conspiracy and supported unfounded allegations of personal animosity just to soothe their intended objective and Newport Road ICF's – to cause me at all costs to lose my employment at this facility and, hence, my human prestige, without any rational basis whatsoever, whereas they favored one party with an ulterior motive over another. Where is the evidence against me and why all the facts have been hidden? To use the failure to report a reportable incident allegations as the underpinning of Category 3 Neglect to terminate my employment is cause for concern, and, hence, amount to discriminatory animus. Any trier-of-fact-finders would ask whether this clause of un-reporting such incident in a timely manner" occurred on many instances and for each instance, I have failed to do so. This was simply made-up to justify my termination and career destruction, and this will determine the telium of this matter.

Furthermore, no material facts have been proven and no preponderance of the evidence has been adduced at the "ad-hoc", ipso facto inadequate due diligence, let alone the biased investigation that was conducted by the employer and supported by Justice Center, which has no idea of what transpired. They cannot adjudicate their decision on only a chicken-sink-theory issue and the self-serving statement of third-party, as well as on any biased official witnesses' make-believe statements just to soothe their own interest. Once again, I did not fail to report reportable incident involving a service recipient to the VPCR in a timely manner, neither did I obstruct any report of reportable incidents, and it's being used as the chicken-sink theory to unjustly terminate me.

The different standards set for other acolytes with ulterior motives exemplify the malevolent practice ignominiously engineered and condoned by Newport Road ICF. The fact of the matter is: The matter did not become mature enough for their decision at the close of the hearing, of course, there should have been a formal hearing, when in fact I had not fully been heard, nor had any thorough investigation been conducted as to call forward any witnesses. They simply rushed to judgment with no rational statement of reasons for the termination. Therefore, the Newport Road ICF's decision is

conspiratorial, calculated, arbitrary and capricious, discriminatory and without good cause.

Newport Road ICF should not tolerate “smear-campaign” discrimination, retaliation, and harassment in any form. I do know this for sure. Nonetheless, the unknown element has set out to tarnish the Center’s commitment to maintain a work environment of mutual respect, which is free of personal animosity, harassment and bias. This will be dealt in strict accordance with Title VII of the Civil Rights Act of 1964, 701 et seq. should this trend continue

One thing this matter is not really about is whether I actually committed the act of which I am accused: obstruction of report reportable incidents on one instance and failure to report a reportable incident on another instance. Was I, as a Grievant, terminated for any wrongdoing, or for “smear-campaign” discrimination or vendetta against me? How many days does the Administrative Rule require before suspension of position, probation and then termination? You be an Administrative Law Judge! Where the evidence equally supports both sides –assuming arguendo – the employer has not met its burden, all parties which committed a wrongful act, must pay their price or be liable for their wrongdoing. The fact remains that I did not fail to report anything involving a service recipient to the VPCR in a timely manner. Rather, it was Tracey Smith who called me to intimidate me and used smear tactic on March 18, 2016 to know whether I reported the incident or not. When I replied in the affirmation, she intoned that I would be terminated.

Newport Road ICF violated my Eighth Amendment to the U.S. Constitution, which forbids some punishments entirely. In Furman v. Georgia (1972), Justice Brennan wrote, “There are, then, four principles by which we may determine whether a particular punishment is ‘cruel and unusual’”.

The “essential predicate” is “that a punishment must not by its severity be degrading to human dignity,” especially torture and human indifference.

“A severe punishment that is obviously inflicted in wholly arbitrary fashion.”

“A severe punishment that is clearly and totally rejected throughout society.”

“A severe punishment that is patently unnecessary.....”

That said, the hasty decision, without facts and proven evidence of wrongdoing, has caused unnecessary economic loss, physical and emotional pain, coupled with the arbitrary suspension, constituting cruel and unusual punishment. Because the administrator’s actions are degrading to human dignity, inflicted in wholly arbitrary fashion, rejected by any civilized institution, and unwarranted, hers constitute a violation of my rights. Isn’t it a scorched-earth decision by Newport Road ICF to report me to the NYS Justice Center when in fact there is no truth in all the accusations against me? Thus, come the long suffering for my family and its indefinite extensions with an arbitrary and capricious deep-seated bias against me. As a semi-disabled person myself, I feel guilty,

not because of the charges leveled against me, but because of the aggravated, psychological and punitive injury sustained during the course of this ordeal.

Here, clear and convincing evidence shows that the adversarial party exaggerated the event at the outset simply to provoke hostile action on Newport Road ICF's part. Any means whatsoever employed in disguise to intentionally or emotionally provoke a group or a person to hostile action cannot itself lead any rational trier of facts to hold the victim of such action responsible for conspiratorial allegations. That Newport Road ICF's rank-and-files failed to use their judgment to see that I was not committing any wrongdoing is an unresolved issue. Their complete lack of sensitivity and investigative savvy defies human respect and, hence, borders hostile work environment. As such, I cannot be bludgeoned into accepting a reverse disciplinary action and hence, long endemic termination on any Category 3 Neglect. Thus, legal remediation will be sought in all necessary forms whatsoever.

The law and regulation states, in part, any offensive/adverse action adapted to give offense, thereby displeasing or annoying the victim, is deemed aggressive or litigious. Therefore, I was not doing any thing wrong when I quickly reported the incident during the process of handling it, which I indeed did, not the other way around, and cannot be punished for doing so as an excuse for other grudges against me that were not materialized.

To note parenthetically, Title VII creates a cause of action based on the presence of a hostile working environment when the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently pervasive to alter the conditions of the victim's employment. So, there is overwhelming evidence, based on the totality of the facts, to raise a fact issue as to whether Newport Road ICF's overreacted decision is merely a pretext for causing harm to my career. Thus, their decision is without any rational basis and, hence, borders on the hostile work environment, discriminatory animus, pervasive harassment, insult, and cruel and unusual punishments.

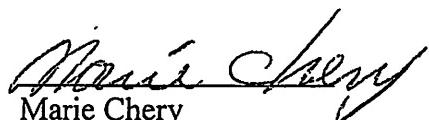
To prove that an employer's proffered reasons for its actions were a pretext for discrimination, a Title VII plaintiff can either directly persuade the Court that a discriminatory reason more likely motivated the employer or show indirectly that the employer's proffered explanation is unworthy of credence. Civil Rights Act of 1964, 701 et seq., 42 U.S.C. Sect. 2000e et seq.

For instance, all employee handbooks say for the first violation of a rule, a person is warned; for the second violation, a person is suspended; and for the third, a person is fired. If a person is either demoted, transferred, or fired after only one violation, it may be illegal firing. My termination was not predicated on any un-reportable incident, in part because all the administrative procedure had been followed. That's a termination in disguise, which will be dealt in strict accordance with the labor law.

Accordingly, unlawful discriminatory animus predicated on conspiracy and innuendo of any third-party's motive, personal vendetta, deep-seated hatred, power-hungriness motivate that third-party to foment story and in the process catapult Newport Road ICF to

act irresponsibly and without any sound judgment, not that I committed any act of neglect or un-reportable incident. For all the foregoing reasons, Plus Group Home's decision should be abrogated, as it borders on no sound basis or judgment, and without any regard to facts, and that I respectfully request that NYS Justice Center's decision be reconsidered and amended to Step 1 Paper Review commensurate with what's set forth in my appeal.

Respectfully submitted,


Marie Chery

cc: Nassau District Attorney's Office
Criminal Complaint Review Unit
272 Old Country Road
Mineola, NY 11501

State of New York)

ss.:)
County of Queens

Sworn to and subscribed before me this 8 day of June 2016


Nadege Jean
Notary Public

Nadege Jean
NOTARY PUBLIC, State of New York
Qualified in Queens County
No 01JE6316857
Commission Expires: 10/27/18

Marie Chery
175 Louis Avenue
Elmont, NY 11003

February 13, 2017

Administrative Appeals Unit
Justice Center for the Protection of People with
Special Needs
161 Delaware Avenue
Delmar, NY 12054

Re: Letter-Brief setting forth my Version of the Events transpiring my Arbitrary and Capricious Termination on Muted Abuse or Neglect and Grounds in Regard to the Unfair Decision predicated on no Fact-Findings of Wrongdoing, inasmuch as there was no Abuse or Neglect at the Outset – Finding Neglect or Abuse on one Violation is excessive Punishment. Thus, an Expungement or Step 1 Paper Review of the decision is respectfully requested.

Legal Action will be ensued brachystochronically unless the Center reverse course

VPCR Case Serial Number 551047958; VPCR Adjudication Case Number
521051720

STATEMENT OF CASE

As previously set forth, I, Marie Chery, respectfully submit this letter-style memo-brief, to wit, my rebuttal, or the second request for the amendment of the report, setting forth my version of the events transpiring my wrongful/excessive punishment, of which an uncorroborated report, based on innuendoes and misfeasance, was submitted for abuse or neglect of a resident under the auspices of Newport Road ICF -- for which unfounded act was not proven. I hereby disagree with the Administrative Appeals Unit's misguided decision and wish to further the Appeal Process. As I stated before, I have been singled out for abuse or neglect when in fact it was imperative that I report the abuse perpetrated by the very institution that imposed this punishment on my persona to the office that oversaw such abuse. Had I not done so, another type of charge would still be lodged to that effect. As such, I had not been neglected in the pursuit of my duties inasmuch as I was very active determining what transpired and reported so immediately. To paraphrase what Tracey Smith said to me on March 18, 2016, she did ask me whether or not any attempts were made to Justice Center relative to the incident, when I said, "yes", she replied that "we could no longer accept any grievance" and that "we'll not accept you at our institution any longer." "I will make sure that you never work in this field again." "I will report you to appropriate authorities." Accordingly, I vehemently refute the Administrative Appeals Unit's sustaining of unsubstantiated report. The request for amendment of the unsubstantiated report should have been granted. Besides, I welcome any furthering of the case at the Administrative Hearings Bureau.

At first, I went on March 16, 2016 to visit Tracey Smith for a permanent position within the same field and job assignments. Then Natouchka Voigt came over and requested that she talked to me about the incident that occurred. Natouchka told me once I reported the incident to her, you should not have reported it to the manager. So, there's been a cover-up throughout this matter and that I was terminated simply as a pretext for failure to report un-reportable incident involving a service recipient to the VPCR in a timely.

Ostensibly, it's the nature of this establishment not to condone acts of misfeasance and dishonesty, and when someone releases such information, illegal or arbitrary action is being taken against that person. There can be no **Category 3 offense** when in fact I was doing my job assignment in reporting what's deemed necessary and suitable for the well-being of the residents and Justice Center itself. Therefore, they have kept my name on the **VPCR Staff Exclusion List** just to silence me.

I was simply trying to perform my duties and exercise my responsibilities in strict accordance with the law. Nonetheless, Newport Road ICF was simply interested in concealing the facts of the matter, rather than revealing what's set forth. While in fact I was exercising my due diligence to extend my heartfelt help and I was singled out in the process. For the record, I solely reported what was transpired, but was not involved per se in any incident. Thus, Justice Center either misconstrued the records or sided with Newport Road ICF just for the sole purpose of destroying my career.

Nonetheless, I was terminated on an unsubstantiated Category 3 finding of abuse or neglect as a pretext for failure to report an incident in a timely manner, which was unfounded, because it was not deemed "abuse or neglect or a failure to provide adequate care". The employer wanted me to consult with its staff before proceeding to the Justice Center, whereas it reported to the same that I failed to report in a timely manner just to soothe its wrongful termination of my employment.

First of all, I was wrongfully labeled the person responsible for the untimely reporting of the said incident, inasmuch as I was railroaded for the immediate reporting to Justice Center. So, I was not ignoring the recipient's reportable incident to the **VPCR**, and I was in fact exercising my responsibility in time. The Newport Road ICF was simply rushing to judgment, and the Justice Center simply was accommodating its sister institution without any objective standard. What a conundrum! While Newport Road ICF sets rules and policies governing employees' behavior and actions, why has it cast a scant eye on its misreporting the incident in the process of diverting the general public's attention to the real issues? Did Newport Road ICF and/or NYS Justice Center have all the fact-findings to terminate me on that basis? Does it stand to reason that I, whose job assignments encompassed reporting incidents to Justice Center, am also the subject of being terminated for quickly reporting an incident deemed reportable to the Justice Center and then labeled abusive or neglectful for reporting such an incident over the objection of the employer that I worked for, whereas I was exercising my due diligence to stop the abuse of that resident at the hands of the very institution responsible for protecting her? Let the record reflect that since then nothing has happened to the other personnel involved, including but not limited to, Tracey Smith, whereby one of them got promoted, and

I have still been punished for doing nothing wrong, and this practice is unfair if not downright deceptive and discriminatory.

While Newport Road ICF could not prove that I was not providing adequate care due to ignoring the resident's reportable involvement in a timely manner, it has promoted the other two who were in fact disagreed vehemently with Marie Chery's prompt reporting to the Justice Center to excoriate me on the telephone. They both were spared. Why? Is it an origin-based discriminatory animus or a grave indifference or perceived discrimination? While they both are still working at their position, let alone being promoted, Newport Road ICF used the uncorroborated allegations of abuse, neglect, or providing inadequate care by ignoring the recipient's reportable incident in a timely manner against me to discriminatorily punish me. Therefore, Newport Road ICF adversely arbitrarily terminated/excessively punished me, thereby used one-instance allegations, which had never been proven against me, unreasonably and unfairly, in clear violation of due process of law, as embedded in **The Fourteenth Amendment Due Process Clause, and Employment Administrative Procedure Act, 1 N.Y. Jur., Administrative Law, § 184, p. 609.** Had I exercised my due diligence when I chose to report the incident right to the Justice Center without being subjected to the demand of Newport Road ICF's undue influence?

I further request that this Office, and all other concerned ones, bend backward and construe my side of the incident under the interpretation of **Haines v. Kerner**, 404 U.S. 519, 92 S. Ct .594, 30 L Ed. 2d 65 (1972) requiring that pro se pleadings be read liberally); **Soto v. Walker**, 44 F. 3d 169, 173 (2d Cir. 1995) (pro se paper should be interpreted to raise the strongest arguments that they suggest"), and then ponder carefully what's set forth so that they can judge for themselves whether or not I have deserved this admonishment without affording me my due process rights to assert my version of the events leading to my termination/excessive punishment on a muted and single unproven issue – the inadequate care/failure to report a reportable incident allegations involving a service recipient to the VPCR in a timely manner, which have been underpinned just to punish me, and only me, per se. That kind of broken window and chicken sink theory won't stand **Equal Opportunity in Employment, Title VI of the Civil Rights Act 1964 (42 U.S.C. 2000 et seq.)(d)(1)** and **Title VIII 1964 of the Civil Rights Act of 1974.** Thus, I will file a Complaint against all concerned for their nonfeasance.

STATEMENT OF FACT

Here are the particulars: I am personally responsible for the reporting of all incidents involving residents or service recipients to the VPCR. I never neglected my responsibilities, and was always at the forefront to do so in a timely manner. Accordingly, I have taken abuse and neglect very seriously, and would refrain from abusing other similarly-situated individuals. When I decided to work in this field, I wanted to make a difference in the resident's life, as well as advocating for them. I have always treated and continue to treat my residents with respect, dignity and concern. First, as for resident at issue, I was in fact reporting such incident in a quicker manner than the institution for which I worked would want me to. When I

did so ahead of Newport Road ICF, officials at Newport Road ICF were furious, including Tracey Smith, who called me on March 18, 2016, to excoriate me for reporting the incident to the Justice Center without first talking to them. Second, when Tracey Smith called me on March 18, 2016, she made it clear that Newport Road ICF wanted the matter to be moot. Three, even assuming arguendo that this allegation was to be true, this alone did not level to Category 3 neglect pursuant to Social Services Law Sec. 493(4)C.

STATEMENT OF LAW

The burden of proof in disciplinary matters rests with the employer, and the employer must meet that burden by providing the charges against an employee by a preponderance of the evidence. The test to establish whether a rule or action is arbitrary and capricious involves determining if the action is justified by examining whether there is some foundation on the record. See 1 N.Y. Jur., Administrative Law, supra. "An action is arbitrary when it is without a sound basis or reason and is promulgated without regard to the facts." Pell v. Board of Education, 34 N.Y.2d 222, 313 N.E.2d 321 (1974). Although discretion is generally given to the agency, an administrative action is to be upheld only when there is evidence that constitutes a rational basis to support it. See Brodsky v. Zagata, 222 A.D.2d 48, 646 N.Y.S.2d 188 (3d Dep't 1996).

Here, the Category 3 Neglect imposed by NYS Justice Center should be brushed off and struck down/ amended as being too harsh on a person who was too eager to report an abuse, but was excoriated by that institution for so quickly reporting it. The report by Newport Road ICF was arbitrary and capricious because he/she has provided no justification in reaching his/her decision or in carrying the policy of this institution. By the way, they have violated their own policy when trying to coerce me not to report the alleged abuse to Justice Center. Besides, it centered its decision simply on a broad issue – "failure to report a reportable incident involving a service recipient to the VPCR in a timely manner", without defining exactly what I did wrong. I was quick during the process of helping the resident by reporting what transpired that Newport Road ICF did not like my devotement, in part because Tracey Smith and her acolytes would always want to keep the incident unreported. For the record, I was summoned to the administrative office for being too hasty in reporting the matter to the Justice Center. Therefore, the notion of not reporting so in a timely manner was a made-up story just to soothe their wrongful employment decision. At the very least, I was rushing to show my willingness to respond to the needs of that service recipient.

Moreover, residents in group homes are trained to help themselves, to wit, it was an isolated incident that the resident ultimately fell, in part because Tracey Smith was eager to misconstrue the records to the benefits of Newport Road ICF. With all due respect, Newport Road ICF officials betray a lack of understanding of the uniqueness of their role as arbiters of fact. They ignore all the crucial facts that led me to that incident, where I, also, fell victim for being honest and was used as a scapegoat.

The notion that I should be subject to Category 3 neglect or Abuse does not give rise to the level of punishment and is pale in comparison to deep-seated neglect or abuse

endured by other residents. That my due diligence to help the resident by rushing to report that incident had resulted in an anomaly is no way justifying punishing me to Category 3 Neglect pursuant to Social Services Law Sec. 493(4)C. I have provided a prompt reporting to the Justice Center and to say otherwise is pretextual and borders on conspiracy and **earlier hear-says or story of abuse fomented by Newport Road ICF**, who has had an axe to grind, or unknown party with a grudge against me. Thus, this action of suspension and/or termination is contentious and wholly out of line with any sound established policy. A **Step 1 Paper Review or thorough expungement** of the existing decision is the viable way to resolve the issue to the mutual assent of all concerned so that a prolonged litigation could be warded off.

It's undisputed that I was labeled as such because they harbor biasedness on every issue involving me. How could a decision have been rendered without all the facts of the case? How could a letter of disciplinary not have given to me? How could I have been treated so unfairly by an institution that I worked for almost one year to the benefits of the residents? In the instant matter, **only one side of the story was heard and decided thereon, and the underpinning Newport Road ICF used to suspend/terminate my employment was un-reportable incident or failure to report a reportable incident involving a service recipient to the VPCR in a timely manner -- allegations that had never been proven by the employer.** Why did they reason out that way? They failed to equitably fairly judge me based on my bona fide persona, whereas they used any conspirational, third-party personal vendetta to punish and destroy me. At this juncture, no one should turn a deaf ear on that. They again condoned conspiracy and supported unfounded allegations of personal animosity just to soothe their intended objective and Newport Road ICF's – to cause me at all costs to lose my employment at this facility and, hence, my human prestige, without any rational basis whatsoever, whereas they favored one party with an ulterior motive over another. Where is the evidence against me and why all the facts have been hidden? To use the failure to report a reportable incident allegations as the underpinning of **Category 3 Neglect** to terminate my employment is cause for concern, and, hence, amount to discriminatory animus. Any trier-of-fact-finders would ask whether this clause of un-reporting such incident in a timely manner" occurred on many instances and for each instance, I have failed to do so. This was simply made-up to justify my termination and career destruction, and this will determine the telium of this matter.

Furthermore, no material facts have been proven and no preponderance of the evidence has been adduced at the "ad-hoc", ipso facto inadequate due diligence, let alone the biased investigation that was conducted by the employer and supported by Justice Center, which has no idea of what transpired. They cannot adjudicate their decision on only a **chicken-sink-theory issue** and the self-serving statement of third-party, as well as on any biased official witnesses' make-believe statements just to soothe their own interest. Once again, I did not fail to report reportable incident involving a service recipient to the VPCR in a timely manner, neither did I obstruct any report of reportable incidents, and it's being used as the chicken-sink theory to unjustly terminate me.

The different standards set for other acolytes with ulterior motives exemplify the malevolent practice ignominiously engineered and condoned by Newport Road ICF. The

fact of the matter is: The matter did not become mature enough for their decision at the close of the hearing, of course, there should have been a formal hearing, when in fact I had not fully been heard, nor had any thorough investigation been conducted as to call forward any witnesses. They simply rushed to judgment with no rational statement of reasons for the termination. Therefore, the Newport Road ICF's decision is conspirational, calculated, arbitrary and capricious, discriminatory and without good cause.

Newport Road ICF should not tolerate "smear-campaign" discrimination, retaliation, and harassment in any form. I do know this for sure. Nonetheless, the unknown element has set out to tarnish the Center's commitment to maintain a work environment of mutual respect, which is free of personal animosity, harassment and bias. This will be dealt in strict accordance with Title VII of the Civil Rights Act of 1964, 701 et seq. should this trend continue

One thing this matter is not really about is whether I actually committed the act of which I am accused: obstruction of report reportable incidents on one instance and failure to report a reportable incident on another instance. Was I, as a Grievant, terminated for any wrongdoing, or for "smear-campaign" discrimination or vendetta against me? How many days does the Administrative Rule require before suspension of position, probation and then termination? You be an Administrative Law Judge! Where the evidence equally supports both sides –assuming arguendo – the employer has not met its burden, all parties which committed a wrongful act, must pay their price or be liable for their wrongdoing. The fact remains that I did not fail to report anything involving a service recipient to the VPCR in a timely manner. Rather, it was Tracey Smith who called me to intimidate me and used smear tactic on March 18, 2016 to know whether I reported the incident or not. When I replied in the affirmation, she intoned that I would be terminated.

Newport Road ICF violated my Eighth Amendment to the U.S. Constitution, which forbids some punishments entirely. In *Furman v. Georgia* (1972), Justice Brennan wrote, "There are, then, four principles by which we may determine whether a particular punishment is 'cruel and unusual'".

The "essential predicate" is "that a punishment must not by its severity be degrading to human dignity," especially torture and human indifference.

"A severe punishment that is obviously inflicted in wholly arbitrary fashion."

"A severe punishment that is clearly and totally rejected throughout society."

"A severe punishment that is patently unnecessary....."

That said, the hasty decision, without facts and proven evidence of wrongdoing, has caused unnecessary economic loss, physical and emotional pain, coupled with the arbitrary suspension, constituting cruel and unusual punishment. Because the administrator's actions are degrading to human dignity, inflicted in wholly arbitrary fashion, rejected by any civilized institution, and unwarranted, hers constitute a violation

of my rights. Isn't it a scorched-earth decision by Newport Road ICF to report me to the NYS Justice Center when in fact there is no truth in all the accusations against me? Thus, come the long suffering for my family and its indefinite extensions with an arbitrary and capricious deep-seated bias against me. As a semi-disabled person myself, I feel guilty, not because of the charges leveled against me, but because of the aggravated, psychological and punitive injury sustained during the course of this ordeal.

Here, clear and convincing evidence shows that the adversarial party exaggerated the event at the outset simply to provoke hostile action on Newport Road ICF's part. Any means whatsoever employed in disguise to intentionally or emotionally provoke a group or a person to hostile action cannot itself lead any rational trier of facts to hold the victim of such action responsible for conspiratorial allegations. That Newport Road ICF's rank-and-files failed to use their judgment to see that I was not committing any wrongdoing is an unresolved issue. Their complete lack of sensitivity and investigative savvy defies human respect and, hence, borders hostile work environment. As such, I cannot be bludgeoned into accepting a reverse disciplinary action and hence, long endemic termination on any Category 3 Neglect. Thus, legal remediation will be sought in all necessary forms whatsoever.

The law and regulation states, in part, any offensive/adverse action adapted to give offense, thereby displeasing or annoying the victim, is deemed aggressive or litigious. Therefore, I was not doing any thing wrong when I quickly reported the incident during the process of handling it, which I indeed did, not the other way around, and cannot be punished for doing so as an excuse for other grudges against me that were not materialized. Thus, the Category 3 offense is not justified either in law or in logic. As a parent of a child with learning disability, I will always be at the forefront to deter those who set out to commit abuses of disabled residents.

To note parenthetically, Title VII creates a cause of action based on the presence of a hostile working environment when the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently pervasive to alter the conditions of the victim's employment. So, there is overwhelming evidence, based on the totality of the facts, to raise a fact issue as to whether Newport Road ICF's overreacted decision is merely a pretext for causing harm to my career. Thus, their decision is without any rational basis and, hence, borders on the hostile work environment, discriminatory animus, pervasive harassment, insult, and cruel and unusual punishments.

To prove that an employer's proffered reasons for its actions were a pretext for discrimination, a Title VII plaintiff can either directly persuade the Court that a discriminatory reason more likely motivated the employer or show indirectly that the employer's proffered explanation is unworthy of credence. Civil Rights Act of 1964, 701 et seq., 42 U.S.C. Sect. 2000e et seq.

For instance, all employee handbooks say for the first violation of a rule, a person is warned; for the second violation, a person is suspended; and for the third, a person is fired. If a person is either demoted, transferred, or fired after only one violation, it may be illegal firing. My termination was not predicated on any un-reportable

incident, in part because all the administrative procedure had been followed. That's a termination in disguise, which will be dealt in strict accordance with the labor law.

Accordingly, unlawful discriminatory animus predicated on conspiracy and innuendo of any third-party's motive, personal vendetta, deep-seated hatred, power-hungriness motivate that third-party to foment story and in the process catapult Newport Road ICF to act irresponsibly and without any sound judgment, not that I committed any act of neglect or un-reportable incident. For all the foregoing reasons, Plus Group Home's decision should be abrogated, as it borders on no sound basis or judgment, and without any regard to facts, and that I respectfully request that NYS Justice Center's decision be reconsidered and amended to Step 1 Paper Review commensurate with what's set forth in my appeal. I also am willing to accommodate any hearing at the Administrative Hearings Bureau.

Respectfully submitted,

Marie Chery
Marie Chery

cc: Nassau District Attorney's Office
Criminal Complaint Review Unit
272 Old Country Road
Mineola, NY 11501

Administrative Hearings Bureau, NYS Justice Center for the Protection of People With Special Needs, 401 State Street, Schenectady, New York 12305

State of New York)

ss.:)

County of *Ocean*)

Sworn to and subscribed before me this *13th* day of February 2017

[Signature]
Notary Public





**Justice Center for the
Protection of People
with Special Needs**

ANDREW M. CUOMO

Governor

**Administrative Appeals Unit Notice of Administrative Review Determination -
Substantiated**

January 13, 2017

Ms. Marie Chery
PO Box 230417
Hollis, NY 11423-0417

Re: VPCR Master Case Number 551047958
VPCR Adjudication Case Number 521051720

Dear Ms. Chery:

Pursuant to Social Services Law § 494 an administrative review of the record has been conducted by the Justice Center Administrative Appeals Unit based upon your request for amendment of the substantiated report of abuse or neglect regarding the above referenced case.

The Administrative Appeals Unit has reviewed the investigative file, the substantiated report, the request for amendment and any additional evidence submitted with your request. As a result of the review, the Administrative Appeals Unit has determined that a preponderance of evidence supports the finding(s) of abuse or neglect as well as the category level(s), and the report is upheld in its entirety. As such, your request for amendment of the substantiated report is denied.

Your request for amendment of the substantiated report of abuse or neglect will now be referred to the Administrative Hearings Bureau of the Justice Center. The Administrative Hearings Bureau will initiate the hearing by scheduling a pre-hearing conference. You will receive notice of the date, time and place of the pre-hearing conference from the Administrative Hearings Bureau at least 20 days prior to the scheduled date. An administrative hearing will be scheduled at the time of the pre-hearing conference.

At the hearing, the Justice Center will be required to produce evidence to support the findings of the substantiated report by a preponderance of the evidence. The questions to be addressed at the hearing are whether there is a preponderance of evidence to support a finding of abuse or neglect, and pursuant to Social Services Law § 493(4), the category level(s) of abuse or neglect.

If you are successful at the hearing and it is determined that a preponderance of the evidence does

not support a finding of abuse or neglect, the report will be amended to unsubstantiated and sealed pursuant to Social Services Law sections §§ 493(3)(d) and 496(1).

If you are not successful at the hearing, the Justice Center will confirm its findings in the Vulnerable Persons' Central Register (VPCR).

You have been found responsible for a Category 3 offense. A substantiated Category 3 finding of abuse or neglect will NOT result in your name being placed on the VPCR Staff Exclusion List. Reports that result in a substantiated Category 3 finding will be sealed after five years

If, upon review of this information, you wish to decline your right to a hearing, please submit your request in writing to the Administrative Hearings Bureau.

For more information about the administrative hearing process, the regulation governing the Administrative Adjudication Process for Substantiated Cases of Abuse and Neglect (14 NYCRR Part 700) is available on the Justice Center's website at <http://www.justicecenter.ny.gov> (click on "Resources").

Please direct any further correspondence regarding this matter to:

**Administrative Hearings Bureau
NYS Justice Center for the Protection of People with Special Needs
401 State Street
Schenectady, New York 12305.**

Administrative Appeals Unit
NYS Justice Center for the Protection of People with Special Needs

this is east Meadow
House 1-1-16
by Manager
Dawn Richardson.

P.L.U.S. Group Homes, INC

PERFORMANCE EVALUATION

Name of Employee: Marie Chery

Position: Hub Spec

Evaluation Period: From 1/1/15 to 12/31/15

<u>POINTS:</u>	(10)	(5)	(3)
1. Attended Monthly Staff meeting	11-12	10	<9
2. Absenteeism (sick time only)	0-3	4-6	>3
3. Tardiness (>20 minutes for a shift)	<2	2-4	
4. Corrective/Writes up	0	1	>2

- I. **KNOWLEDGE OF JOB:** Employee's knowledge and understanding of (behavior plans, proactive treatment, running goals, advocating for Consumers).
- o Excellent (10)
 - o Good (5)
 - o Needs improvement (3)

Rate Each Area: (E,G,N)

BEHAVIOR PLAN:

A) Understanding of the Behavior plan N Follows Behavior plan N
Document Behavior data accordingly N

B) ADVOCATING:

Reporting Consumers needs to Management: (I.E. clothing, Outings, interest, activities) N

Report Medical concerns to Management N

Ensure Family Style Dining N

C) RUNNING GOALS :

Understands the Goal Plans G Implementing Goal Plan G

Follow Goal Plan G Documents Goals Data Properly G

3) _____

Items needing improvement:

- 1) Improve on knowledge of behavior plans, and
rudeness of residents.
- 2) Improve on providing individualized for our residents and
offering choices of activities.
- 3) Improve on communicating issues with Management/Clinicians
and nurse, as well as documenting any issue in the best

Goals Action Plan for upcoming evaluation period:

- 1) Continue to learn the policies of the agency and
strive to best complete tasks.
- 2) Continue to understand teamwork on shift and
provide support to your co-workers & residents.

Employee Objection/Concerns:

I never Absent 1 OR 6 time I only call sick
brief time have good communication with my
CO-WORKER AND MY Manager I ALWAYS Call the
NURSE IF I SEE BRUISE OR MARKS ON CONSUMERS
ALWAYS Read COMMUNICATION LOGS AND DOCUMENT WITH NO PROBLEM
I GET THIS EVALUATION BECAUSE I REPORT HORROR STAFF LOOK him in
IS ROOM FOR 3 HRS PUNISHMENT I REPORT ABUSE MANAGER GET ANGRY
AND GIVE ME BAD EVALUATION BEFORE HE USE TO SAY MARIE YOU DO A GOOD
JOB AFTER I REPORT ABUSE I BECOME THE BAD WORKER NOT FAIR.

Audrey C. Cherry

Signature of Employee

1-1-16

Date

Signature of Asst. Manager/Supervisor

RLJ

Date

1/30/16

Signature of Program Manager

Date

D) ACTIVE TREATMENT:

Engages all individuals throughout the shift (i.e., rec/exercise, household chores,) G

Engages all individuals in community G

Promotes Independence N Promotes Choices (i.e., food, activities, decision making) N

Promotes communication w individuals throughout the shift G

II. RESPECT JOB:

WORK HABITS: Staff professionalism, conduct & interaction with Supervisors, Co-worker and individuals.

Rate each Area: (E,G,N)

Respectful to individuals G

Respectful to Supervisors, Clinical Administrative staff and Co-workers G

Respectful to Individuals' Family Members directs family members to management G

Respect Agency/Individual's Property (vans, phones, appliances, furniture, and house – no feet on furniture, sitting on arms of furniture, no writing on furniture, walls etc.)

Follow Agencies policy and procedures N

Uses appropriate Language G

Follows assigned tasks with individuals as indicated on daily schedule G

III. SUPERVISION: (E,G,N)

Supervision of Individuals as per their Behavioral plan/POP/Medical plan N/A

Prepares Individual's meals as per their Diet Plan N

Supervises meal time as per Individuals plan (proper staffing, portions, consistency i.e., cut to size, chopped, $\frac{1}{4}$, $\frac{1}{2}$, $\frac{3}{4}$ 1 inch etc. Adds thicket to liquids) G

Ensures Individual Privacy G

Provides supervision in bathroom/bedrooms as required G

Provides supervision during community recreation G

NOT AMAP

IV. MEDICATION ADMINISTRATION: (E,G,N)

Follow all AMAP procedures (i.e., 5 Rights and Rule of 3) N/A

Provides proper documentation i.e., initial MARs properly, signs back of MAR, Initials and dates blister pack, etc. N/A

Orders medication when needed N/A

Processes pharmacy delivered meds properly i.e., ensures content for accuracy, signs for delivered meds, counts meds and starts inventory/count sheet, ensures shift AMAP receives medication N/A

Ensures proper count N/A

Follows proper procedures when receiving medication N/A

Contacts Nurse with any medication issues N/A

When did the alleged discrimination occur?

Date:

3-16-2016

Where did the alleged discrimination occur?

Location:

ON THE OFFICE AT 1228 WALTER AVENUE SUITE 201

Describe what happened. (Please use extra pages if necessary.)

ON 3-11-2016 I SPOKE TO TRACEY SMITH ABOUT 3 POSITION OPENINGS AND SHE SAID APPLY FOR THEM AND SHE SAID COME TO SEE ME ON 3-16-2016 WHEN I GOT THERE NATOUCHKA VOIGT SAID I TOLD YOU THAT BEFORE STOP REPORTING THINGS ABOUT THOSE CONSUMERS AND I SAID TO HER ANTHONY SAFETY COME FIRST SHE SAID I TELL YOU NOT TO REPORTING NOTHING ABOUT ANY HOUSE, WHO IS UNDER MY RESPONSIBILITY, IF YOU NEED YOUR JOB STOP IF YOU DON'T STOP I'M GOING TO FIRE THEM SHE DID. NATOUCHKA ON CHARGED FOR 3 HOUSE, IF YOU SEE ABUSE SHE SAID DON'T CALL JUSTICE CENTER, I GET THIS OR DON'T CALL MY OFFICE. ON 3-16-2016 NATOUCHKA SAID TO ME YOU NEED HELP YOURSELF MARIE YOU HAVE A BAD DISABILITY THIS JOB IS NOT FOR YOU. I REPORT IT TO TERESA ON 3-16-16
MONIQUE CHERYL 3-16-16

I just wanna know who telling you the true
I this to see who telling you the true

1631-388-9362

Mar 17

The manager said I left
the shift it was 6 of use
working that day 4 of
them go home including
Onda me and Michael
left Michael cover 1:1
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the come to cover the
shift why natouchka get

I left because my ^{160/1}
Release come the manager said I was suppose to take over the 1:1
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was on the floor natouchka also talk about that to me on the day I
got fire I also said with him Because he have to go to another

Outlook Mail

Search Mail and People		Hide detail	Reply	Delete	Archive	Junk
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shower tell everyone



1 631-388-9362

Plus some co-workers
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1 681-388-9362
x shower tell everyone
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after the call she come
to me said Marie
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because I see some I
always tell my
manager about it if
nothing happens I call I
text Tracey or
no touchka I do
overtime 5 mount a go
I do one day overtime
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manager ou call me at
1:1:30pm at the time I
said I work 40 hrs for
this going to be a
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called me again said
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1 631-388-9362

This is a text I sent to
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me for the consume
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be come a target
because I see some I
always tell my manager
about it if nothing
happen I call I text
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do overtime 5 mount a

1 631-388-9362

Plus some co-workers
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down stairs in ate
everything from the
Frigidaire in Nancy and
Susan x both stay in bed
very wait if I give Sussan
x shower I tell everyone

DATE OF HIRED : JUNE 18- 2015 AS PER DEM

DATE OF FIRED : MARCH 16-2016

REASON OF FIRED: ON 3-11-2016 I SPOKE TO TRACEY SMITH, ABOUT 3 POSITIONS OPENING AND SHE SAID APPLY FOR THEM, AND SHE SAID COME TO SEE ME WEDNESDAY 03-16-2016, WHEN I GOT THERE.

NATOUCHKA SAID I TOLD THAT BEFORE STOP REPORTING THINGS ABOUT THOSE CONSUMER AND I SAID TO HER ANTHONY SAFETY COME FIRST, SHE SAID, I TELL YOU NOT TO REPORTING NOTHING ABOUT ANY HOUSE WHO IS UNDER MY RESPONSABILITY, IF YOU NEED YOUR JOB STOP IF YOU DON'T STOP I'M GOING TO FIRE THEM SHE DID, NATOUCHKA ONE CHARGED 3 HOUSES, IF YOU SEE ABUSE SHE SAID DON'T CALL JUSTICE CENTER, I GET THIS OR DON'T CALL MY OFFICE NATOUCHKA ACCUSED ME NOT REPORTING TO HER HAVE PROVE ALL THE TEXT I SEND TO HER ABOUT ABUSE AND INCIDENT THE COMPANY VIOLATED LABOR LAW BY MAKE ME WORK 16HR IN 2 WEEKS I ALSO HAVE THE TEXT FROM ALL MANAGER TEXT ME AND ASK ME TO COME TO WORK NOW THEY WANT BLAM ME, ALSO YOU FIRE BECAUSE TO MUCH OVERTIME, I SAID THAT WAS ON SEPTEMBER LAST YEAR NATOUCHKA SAY YES MARIE YOU ALSO FIRE FOR THAT TOO I SAID TO NATOUCHKA HOW MANY TIMES YOU CALL ASKING ME PLEASE DON'T REPORT INCIDENT TO WANTED OR JUSTICE CENTER, IN ONE WEEK 3 OR 4 ~~WANTED~~ INCIDENT HAPPENED BUT STAFF COVER THEM UP BECAUSE

Marie C. Cherry

NATOUCHKA ALWAYS TELLING US PLEASE
DON'T WRITE ANYTHING about the INCIDENT
WHAT IS THAT SAFETY COME FIRST ANTHONY NEED
TO BE SAFE, HE ALSO NEED TO BE INFL FOR MORE
SAFETY NOT TO FIRE ME OR COVER UP SAFETY
CONCERN FOR THE CONSUMERS.

PLUS GROUP HOME IT'S TIME TO STOP COVER UP
INCIDENT IN FIRE YOUR EMPLOYEES BECAUSE THEY
REFUSE TO STOP COVER UP THINGS.

WHY LIE TELL THE TRUTH WE ALSO HAVE TO LIE
WHEN WE DO THE GOALS FOR THE CONSUMERS
WE ALSO HAVE TO LIE, WE TAKE THEM OUT WHEN
WE DON'T ALL PAPER'S WORK ARE LIE WHEN I REPULSE
THE ASSISTANT MANAGER SAID: THIS IS THE WAY
FOR THE COMPANY TO GET PITY' ONE.

ONE MARCH 16 2016 I RECEIVED A PHONE CALL FROM
TERESA, (EXECUTIVE DIRECTOR) SHE SAID:

I TALK TO NATOUCHKA AND TRACEY both said
THEY NEVER SEE AND I SAID I WAS IN THE OFFICE
SHE SAID IF YOU WERE THERE WHAT DRESS COLOR
THEY WEAR? AND I SAID TRACEY WEARED WHITE
TOP AND NATOUCHKA WEARED ALL BLACK. AND
SHE STARTED SCREAMING TO THEM WHY YOU LIE TO
ME AND THEM SHE SAID I'M CALLING YOU BACK
MARIE.

On 8-23-2015, I called TRACEY Smith and told her, the door can't close. Also it not safe for the consumers. It was 3:30 PM, She said, I will send someone to fixed the door today.

AT 8:02 PM, I send her a text message about the door need to be Fixed, I get Report at 3:00 PM, The STAFF Said to me, one of the consumer name, Heater was missing, and one neighbor Find her was playing with the garbage can. That's why I called TRACEY Smith to send someone to fix the door.

On 8/24/2015 TRACEY Smith called me, she said; I'm going to fire you. I said Why? She said, because you never report the front can't close also you never report Heater incident. After I talked to her BOSS TERESA CANCELLA Executive director, she said to me Marie go home you're not fired, and she said to TRACEY, I can't make her responsible for something It not even happened on her shift.

I also tell TERESA I'm willing to participate in any investigation If you which to do one.

Marie Chery

175 Louis Avenue
Elmont, NY 11003

Justice Center said if you see abuse, report it. But that's not true when something happens, you call them, the investigator always stand for the company.

JUSTICE CENTER, since your investigator protected the company if you don't see the company in the investigator, making false allegations against me, if something happened on March 1, 2016 why wait until April 24, 2016 to make a false report. The investigator said I have Antony the day of incident, that's another lies, plus the incident happened on 2/25/2016 and another one on 2/26/2016. After that I only worked one more week with that group. It was impossible to work with them on 2/27/2016, it was a Saturday. I finished overnight on Sunday 2/28/2016. Wonda came for 7 - 3 shift, soon she see me she started yelling and screaming, said I steal \$ 60 from her bag. I said when she replied on 2/23/2016. I said to her why you wait until 2/28/2016? She was screaming about it, I said to Wonda : "Did you remember you asked me for money because you don't have any money to give your daughter that day to give to your daughter to go school. I only have \$10 I give it to her, if you have \$60 why asking people for money, including me. On 02/29/2016. I took her to the manager in I left the shift; no more working Monday and Tuesday for me. I left with Friday and Saturday. Remember I become a target after I reported Anthony's incident. The manager didn't want me in the house and my co-workers. On 03/01/2016 Wonda make another false accusation I steal her tax paper I take her to the manager she said I am sorry I find it upstairs. Wonda and Natoucka to best friend and cover for each other. Tracy Smith told me that she was an investigation and she also worked for the company as investigator, she just wanted me to know.

Marie Cherry

Marie Cherry

6/9/2016

KEDNER P. STEVEN
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01STE075230
QUALIFIED IN QUEENS COUNTY
REGISTRATION EXP. ON 03/31/2019

✓ ✓ /
✓

MARIE CHERRY TAKES FULL RESPONSIBILITY
FOR THE INCIDENT WAS HAPPEN TO HELLEN
I SAID TO MARJORIE, I'M NOT GOING TO SIGN IT
THEN I'M NOT THE ONE FEEDING HELLEN IT WAS
KELISHA (ASSISTANT MANAGER) WHO WAS FEEDING HELLEN.
MARJORIE CALL NATOUCHHEKA AND NATOUCHHEKA SAID
PUT MARY ON THE PHONE SHE SAID SOMEONE NEED
TO GET BLAME FOR IT. AND SHE SAID SIGHT MARY
DON'T WORRY, IT'S NOTHING. AND I SAID IT'S NOTHING
FOR YOU. BUT IT'S SOMETHING FEAR ME. I REFUSED
TO SIGN IT.

ON 09. 28. 2015 I WAS IN CPR CLASS
NATOUCHHEKA CAME IN THE CLASS & HE TOOK MY HAND
SHE TOLD ME MARY DON'T TALK TO HELLEN'S INCIDENT
IF YOU DO SO - I'M TELLING YOU, YOU WILL LOSE
YOUR JOB AND DON'T CALL JUSTICE CENTER TO
REPORT IT I COULD LOSE MY JOB IF YOU
WANT YOUR JOB YOU HAVE TO SILENCE.
I SAID THIS NEED TO REPORT TO JUSTICE
CENTER. SHE SAID DO IT YOU WILL BE OUT
OF JOB.

MARIE CHERRY

AND SHE CALLED ME BACK, SHE SAID:

I WANT YOU TO WRITE A GRIEVANCE LETTER TO GET YOUR JOB BACK. AND I MADE IT THEM I RECEIVED A PHONE CALL FROM TRACEY SMITH ON MARCH 18-2016. SHE DID ASK ME WHETHER OR NOT ANY ATTEMPTS WERE MADE TO JUSTICE CENTER RELATIVE TO THE INCIDENT. WHEN I SAID "YES", SHE REPLIED THAT "WE COULD NO LONGER ACCEPT ANY GRIEVANCE" AND THAT WE'LL NOT ACCEPT YOU AT OUR INSTITUTION ANY LONGER. "I WILL MAKE SURE THAT YOU NEVER WORK IN THIS FIELD AGAIN. I WILL REPORT YOU TO APPROPRIATE AUTHORITIES.

THEY SAID THE DAY OF THE INCIDENT I WAS ASSIGNING FOR COOKING I NEVER HAD ANTHONY THAT DAY. 2-15-2016. ANTHONY WAS ASSIGNED TO A SPANISH LADY NAME: HALINA. SHE'S FROM BRACON AGENCY NOT ME.

ON 2-16-2016 ANTHONY WAS ASSIGNED TO WOODLYNE ALSO FROM BRACON AGENCY, SHE BROUGHT A SMALL BOTTLE OF ALCOOL AND PUT IT IN THE FRIDGE AND SHE FIND A BOTTLE EMPTY. ANTHONY WAS LYING ON THE PEDESTAL DOWN STAIRS ON THE BAZZMANNA.

NATOUCKEKA NOTIFIED THE SAME DAY BY HER DAUGHTER ABOUT THE INCIDENT AND SHE TALKS TO ALL OF US ONE BY ONE DO NOT TALKING ABOUT THE INCIDENT. SHE SAID WE HAVE TO CALL JUSTICE CENTER AND REPORT THE INCIDENT AND NATOUCKEKA REPLIED: NO.

Marie Cherry

ON 09-24-2015 I WAS ON MY BED (SLEEPING)
A MANAGER FROM MERRICK HOUSE SHE CALL ME
TO COME TO COVER A SHIFT FOR HER AND I SAID
NO IT'S TOO LATE AND SHE CALL ME AGAIN, SHE
SAID I REALLY NEED YOU TO COME SOO WHEN
I GET THERE NO ONE TELL ME IF HELLEN IS going
FOR EYE SURGERY I WAY ASSIGNED FOR KITCHEN
TO COOK AND I TELL ONE OF MY CO-WORKER
TO TAKE OVER THE KITCHEN FOR ME AND SHE DID
ONE OF MY CO-WORKER GIVE EVERY BODY BREAKFAST
INCLUDING HELLEN I WASH UP STOOLS GIVING SHOWERS
TO TWO OTHER CONSUMERS I WAS REFERRED TO.

WHEN I CAME DOWN I SAW HELLEN SITTING
NEXT TO THE ASSISTANT MANAGER ANOTHER CO-WORKER
NAME CARLINE SHE SAID WHO FEED HELLEN THIS MORNING
SHE WAS SUPPOSE TO GO TO ~~SHE~~ HAVE A EYE SURGERY
TO DAY IMMEDIATELY THE ASSISTANT MANAGER TAKE A
NOTE Book SHE MAKE EVERY ONE SIGN AS THEY
KNOW HELLEN GOING TO SURGERY ACCEPT ME
ON 09-26-2015 MARJORIE CALLED ~~ME~~ ME
SHE SAID I WANT COME TO SEE ME.

WHEN I GET THERE SHE GIVE ME A LOT OF PAPER
TO SIGN SHE SAID DON'T READ THEM JUST SIGN
SHE SAID THIS IS YOUR EVALUATION, WHEN I READ
THEM SHE MAKE THE PAPER SHE PUT ON IT

MARIE C. Cherry